



January 30, 2015

HOUSE BILL No. 1287

DIGEST OF HB 1287 (Updated January 28, 2015 6:14 pm - DI 101)

Citations Affected: IC 4-21.5; IC 23-15; IC 24-4.4; IC 24-4.5; IC 24-7; IC 28-1; IC 28-5; IC 28-7; IC 28-8; IC 28-10.

Synopsis: Financial institutions and trade regulation. Makes various changes to the laws concerning: (1) first lien mortgage lenders; (2) persons licensed under the Uniform Consumer Credit Code; (3) rental purchase agreements; (4) debt management companies; (5) financial institutions; (6) pawnbrokers; (7) money transmitters; and (8) check cashers. Repeals a provision providing an alternative regular reserve formula for certain credit unions.

Effective: July 1, 2015.

Burton, Moed, Riecken

January 13, 2015, read first time and referred to Committee on Financial Institutions.
January 29, 2015, amended, reported — Do Pass.

HB 1287—LS 7024/DI 101



January 30, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1287

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-21.5-3-6, AS AMENDED BY P.L.153-2011,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2015]: Sec. 6. (a) Notice shall be given under this section
- 4 concerning the following:
- 5 (1) A safety order under IC 22-8-1.1.
- 6 (2) Any order that:
- 7 (A) imposes a sanction on a person or terminates a legal right,
- 8 duty, privilege, immunity, or other legal interest of a person;
- 9 (B) is not described in section 4 or 5 of this chapter or
- 10 IC 4-21.5-4; and
- 11 (C) by statute becomes effective without a proceeding under
- 12 this chapter if there is no request for a review of the order
- 13 within a specified period after the order is issued or served.
- 14 (3) A notice of program reimbursement or equivalent
- 15 determination or other notice regarding a hospital's

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reimbursement issued by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning regarding a hospital's year end cost settlement.

(4) A determination of audit findings or an equivalent determination by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning arising from a Medicaid postpayment or concurrent audit of a hospital's Medicaid claims.

(5) A license **suspension or** revocation under:

(A) IC 24-4.4-2;

(B) IC 24-4.5-3;

(C) IC 28-1-29;

(D) IC 28-7-5;

(E) IC 28-8-4; or

(F) IC 28-8-5.

(6) An order issued by the:

(A) division of aging or the bureau of aging services; or

(B) division of disability and rehabilitative services or the bureau of developmental disabilities services;

against providers regulated by the division of aging or the bureau of developmental disabilities services and not licensed by the state department of health under IC 16-27 or IC 16-28.

(b) When an agency issues an order described by subsection (a), the agency shall give notice to the following persons:

(1) Each person to whom the order is specifically directed.

(2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party in the record of the proceeding.

(c) The notice must include the following:

(1) A brief description of the order.

(2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.

(3) Any other information required by law.

(d) An order described in subsection (a) is effective fifteen (15) days after the order is served, unless a statute other than this article specifies a different date or the agency specifies a later date in its order. This subsection does not preclude an agency from issuing, under IC 4-21.5-4, an emergency or other temporary order concerning the subject of an order described in subsection (a).



(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a preliminary hearing to determine whether the order should be stayed in whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 2. IC 23-15-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) If the department of financial institutions determines that a business entity has violated IC 28-1-20-4, the department of financial institutions shall notify the secretary of state of the violation.

(b) The secretary of state shall commence a proceeding under this section to administratively dissolve a business entity if:

(1) the name of the business entity contains the word, **or a derivation of the word, "bank", "banc", or "banco", or "bankcor"**; and

(2) the department of financial institutions determines that the business entity violates IC 28-1-20-4.

(c) If the secretary of state commences an administrative dissolution under subsection (b), the secretary of state shall serve the business entity with written notice of the determination under subsection (b)(2). The secretary of state shall, at the same time notice is sent to the business entity, provide a copy of the notice to the department of financial institutions.

(d) If a business entity that receives a notice under subsection (c) does not:

(1) correct the grounds for dissolution; or

(2) demonstrate to the reasonable satisfaction of the department of financial institutions that the grounds for dissolution do not exist;

at any time after sixty (60) days after service of the notice is perfected, the department of financial institutions shall notify the secretary of state in writing of the continuing violation. After receiving the written notice from the department of financial institutions, the secretary of



1 state shall administratively dissolve the business entity by signing a
 2 certificate of dissolution that recites the grounds for dissolution and the
 3 effective date of the dissolution. The secretary of state shall file the
 4 original certificate of dissolution and serve a copy of the certificate of
 5 dissolution on the business entity.

6 (e) A business entity administratively dissolved under this section
 7 may carry on only those activities necessary to wind up and liquidate
 8 the business entity's affairs.

9 SECTION 3. IC 23-15-8-5 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. Dissolution under
 11 this section is in addition to any penalties imposed upon the business
 12 entity **by under IC 28, including** IC 28-1-20-4(j).

13 SECTION 4. IC 24-4.4-1-102, AS AMENDED BY P.L.137-2014,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2015]: Sec. 102. (1) This article shall be liberally construed
 16 and applied to promote its underlying purposes and policies.

17 (2) The underlying purposes and policies of this article are:

18 (a) to permit and encourage the development of fair and
 19 economically sound first lien mortgage lending practices; and

20 (b) to conform the regulation of first lien mortgage lending
 21 practices to applicable state and federal laws, rules, regulations,
 22 policies, and guidance.

23 (3) A reference to a requirement imposed by this article includes
 24 reference to a related rule of the department adopted under this article.

25 (4) A reference to a federal law in this article is a reference to the
 26 law as in effect December 31, ~~2013~~ **2014**.

27 SECTION 5. IC 24-4.4-1-202.5, AS ADDED BY P.L.35-2010,
 28 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2015]: Sec. 202.5. (1) If a person licensed or required to be
 30 licensed under this article also engages in the loan brokerage business,
 31 the person's loan brokerage business is subject to the following sections
 32 of the Indiana Code and any rules adopted to implement these sections:

33 (a) IC 23-2-5-9.

34 (b) IC 23-2-5-9.1.

35 (c) IC 23-2-5-15.

36 (d) IC 23-2-5-16.

37 (e) IC 23-2-5-17.

38 (f) IC 23-2-5-18.

39 (g) IC 23-2-5-18.5.

40 (h) IC 23-2-5-20.

41 (i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).

42 (j) IC 23-2-5-24.



(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under this article are subject to examination by the department and to the examination fees described in ~~IC 24-4.4-2-402(7)(c)~~. **IC 24-4.4-2-402(8)(c)**. The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.

SECTION 6. IC 24-4.4-2-404, AS AMENDED BY P.L.27-2012, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 404. (1) The department may issue to a person licensed as a creditor to engage in first lien mortgage transactions an order to show cause why the person's license should not be revoked or suspended for a period determined by the department.

(2) An order issued under subsection (1) must:

(a) include:

- (i) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;
- (ii) a description of the action contemplated by the department; and
- (iii) a statement of the facts or conduct supporting the issuance of the order; and

(b) be accompanied by a notice stating that the licensee is entitled to:

- (i) a reasonable opportunity to be heard; and
 - (ii) show the licensee's compliance with all lawful requirements for retention of the license;
- at the meeting described in subdivision (a)(i).

(3) After the meeting described in subsection (2)(a)(i), the department may revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated:

- (i) this article or any **applicable** rule, order, or guidance document adopted or issued by the department; or
- (ii) any other state or federal law, regulation, or rule applicable to first lien mortgage transactions;

(b) the licensee does not meet the licensing qualifications contained in section 402 of this chapter;

(c) the licensee obtained the license for the benefit of, or on behalf of, another person;

(d) the licensee knowingly or intentionally made material



misrepresentations to, or concealed material information from, the department; or

(e) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:

(a) the revocation or suspension;

(b) if a suspension has been ordered, the duration of the suspension;

(c) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and

(d) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license as a creditor to engage in first lien mortgage transactions may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) If the director determines it to be in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

(7) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any preexisting lawful contract.

(8) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 7. IC 24-4.4-3-104, AS AMENDED BY P.L.216-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 104. (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the department may examine the records of persons and may make investigations of persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

(a) Training, operating, and policy manuals.



1 (b) Minutes of:

2 (i) management meetings; and

3 (ii) other meetings.

4 (c) Financial records, credit files, and data bases.

5 (d) Other records that the department determines are necessary to
6 perform its investigation or examination.

7 The department may also administer oaths or affirmations, subpoena
8 witnesses, and compel the attendance of witnesses, including officers,
9 principals, mortgage loan originators, employees, independent
10 contractors, agents, and customers of licensees, and other individuals
11 or persons subject to this article. The department may also adduce
12 evidence and require the production of any matter that is relevant to an
13 investigation. The department shall determine the sufficiency of the
14 records maintained and whether the person has made the required
15 information reasonably available. The records concerning any
16 transaction subject to this article shall be retained for two (2) years
17 after the making of the final entry relating to the first lien mortgage
18 transaction, but in the case of a revolving first lien mortgage
19 transaction the two (2) year period is measured from the date of each
20 entry.

21 (2) The department's examination and investigatory authority under
22 this article includes the following:

23 (a) The authority to require a creditor to refund overcharges
24 resulting from the creditor's noncompliance with the terms of a
25 first lien mortgage transaction.

26 (b) The authority to require a creditor to comply with the penalty
27 provisions set forth in IC 24-4.4-2-201.

28 (c) The authority to investigate complaints filed with the
29 department by debtors.

30 (3) The department shall be given free access to the records
31 wherever the records are located. In making any examination or
32 investigation authorized by this article, the director may control access
33 to any documents and records of the licensee or person under
34 examination or investigation. The director may take possession of the
35 documents and records or place a person in exclusive charge of the
36 documents and records in the place where the documents are usually
37 kept. During the period of control, a licensee or person may not remove
38 or attempt to remove any of the documents and records except under
39 a court order or with the consent of the director. Unless the director has
40 reasonable grounds to believe the documents or records of the licensee
41 or person have been, or are, at risk of being altered or destroyed for
42 purposes of concealing a violation of this article, the licensee or person



1 shall have access to the documents or records as necessary to conduct
 2 the licensee's or person's ordinary business affairs. If the person's
 3 records are located outside Indiana, the records shall be made available
 4 to the department at a convenient location within Indiana, or the person
 5 shall pay the reasonable and necessary expenses for the department or
 6 the department's representative to examine the records where they are
 7 maintained. The department may designate comparable officials of the
 8 state in which the records are located to inspect the records on behalf
 9 of the department.

10 (4) Upon a person's failure without lawful excuse to obey a
 11 subpoena or to give testimony and upon reasonable notice by the
 12 department to all affected persons, the department may apply to any
 13 civil court with jurisdiction for an order compelling compliance.

14 (5) The department shall not make public:

15 (a) the name or identity of a person whose acts or conduct the
 16 department investigates under this section; or

17 (b) the facts discovered in the investigation.

18 However, this subsection does not apply to civil actions or enforcement
 19 proceedings under this article.

20 (6) To discover violations of this article or to secure information
 21 necessary for the enforcement of this article, the department may
 22 investigate any:

23 (a) licensee; or

24 (b) person that the department suspects to be operating:

25 (i) without a license, when a license is required under this
 26 article; or

27 (ii) otherwise in violation of this article.

28 The department has all investigatory and enforcement authority under
 29 this article that the department has under IC 28-11 with respect to
 30 financial institutions. If the department conducts an investigation under
 31 this section, the licensee or other person investigated shall pay all
 32 reasonably incurred costs of the investigation in accordance with the
 33 fee schedule adopted under IC 28-11-3-5. **Any costs required to be**
 34 **paid under this section shall be paid not later than sixty (60) days**
 35 **after the person being assessed the costs receives a notice from the**
 36 **department of the costs assessed. The department may impose a**
 37 **fee, in an amount fixed by the department under IC 28-11-3-5, for**
 38 **each day the assessed costs are not paid, beginning on the first day**
 39 **after the sixty (60) day period described in this subsection.**

40 (7) If a creditor contracts with an outside vendor to provide a service
 41 that would otherwise be undertaken internally by the creditor and be
 42 subject to the department's routine examination procedures, the person



that provides the service to the creditor shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any creditor that is licensed under this article and that receives services from the person refusing the examination to:

(a) discontinue receiving one (1) or more services from the person; or

(b) otherwise cease conducting business with the person.

SECTION 8. IC 24-4.5-1-102, AS AMENDED BY P.L.137-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 102. (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;

(b) to provide rate ceilings to assure an adequate supply of credit to consumers;

(c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;

(d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;

(e) to permit and encourage the development of fair and economically sound consumer credit practices;

(f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act and to applicable state and federal laws, rules, regulations, policies, and guidance; and

(g) to make uniform the law, including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule or guidance of the department adopted pursuant to this article.

(4) A reference to a federal law in this article is a reference to the law as in effect December 31, ~~2013~~ **2014**.

(5) This article applies to a transaction if the director determines that the transaction:



- 1 (a) is in substance a disguised consumer credit transaction; or
 2 (b) involves the application of subterfuge for the purpose of
 3 avoiding this article.

4 A determination by the director under this paragraph must be in writing
 5 and shall be delivered to all parties to the transaction. IC 4-21.5-3
 6 applies to a determination made under this paragraph.

7 (6) The authority of this article remains in effect, whether a licensee,
 8 an individual, or a person subject to this article acts or claims to act
 9 under any licensing or registration law of this state, or claims to act
 10 without such authority.

11 (7) A violation of a state or federal law, regulation, or rule
 12 applicable to consumer credit transactions is a violation of this article.

13 (8) The department may enforce penalty provisions set forth in 15
 14 U.S.C. 1640 for violations of disclosure requirements applicable to
 15 mortgage transactions.

16 SECTION 9. IC 24-4.5-1-202, AS AMENDED BY P.L.27-2012,
 17 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2015]: Sec. 202. (a) As used in this section, "balloon
 19 payment", with respect to a mortgage transaction, means any payment
 20 that:

- 21 (1) the creditor requires the debtor to make at any time during the
 22 term of the mortgage;
 23 (2) represents the entire amount of the outstanding balance with
 24 respect to the mortgage; and
 25 (3) the entire amount of which is due as of a specified date or at
 26 the end of a specified period;

27 if the aggregate amount of the minimum periodic payments required
 28 under the mortgage would not fully amortize the outstanding balance
 29 by the specified date or at the end of the specified period. The term
 30 does not include a payment required by a creditor under a due-on-sale
 31 clause (as defined in 12 U.S.C. 1701j-3(a)) or a payment required by
 32 a creditor under a provision in the mortgage that permits the creditor
 33 to accelerate the debt upon the debtor's default or failure to abide by the
 34 material terms of the mortgage.

35 (b) This article does not apply to the following:

- 36 (1) Extensions of credit to government or governmental agencies
 37 or instrumentalities.
 38 (2) The sale of insurance by an insurer, except as otherwise
 39 provided in the chapter on insurance (IC 24-4.5-4).
 40 (3) Transactions under public utility, municipal utility, or
 41 common carrier tariffs if a subdivision or agency of this state or
 42 of the United States regulates the charges for the services



involved, the charges for delayed payment, and any discount allowed for early payment.

(4) The rates and charges and the disclosure of rates and charges of a licensed pawnbroker established in accordance with a statute or ordinance concerning these matters.

(5) A sale of goods, services, or an interest in land in which the goods, services, or interest in land are purchased primarily for a purpose other than a personal, family, or household purpose.

(6) A loan in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.

(7) An extension of credit primarily for a business, a commercial, or an agricultural purpose.

(8) An installment agreement for the purchase of home fuels in which a finance charge is not imposed.

(9) Loans made, insured, or guaranteed under a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(10) Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(11) Except for ~~IC 24-4.5-3-502.1(2)~~, **IC 24-4.5-3-502.1(4)**, IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a loan made:

(A) in compliance with the requirements of; and

(B) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from; the Indiana housing and community development authority established by IC 5-20-1-3.

(12) Except for ~~IC 24-4.5-3-502.1(2)~~, **IC 24-4.5-3-502.1(4)**, IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a subordinate lien mortgage transaction made by an entity that exclusively uses funds provided by the United States Department of Housing and Urban Development under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended (42 U.S.C. 5301 et seq.).

(13) The United States, any state or local government, or any agency or instrumentality of any governmental entity, including United States government sponsored enterprises.

(14) A bona fide nonprofit organization not operating in a commercial context, as determined by the director, if the following criteria are satisfied:



- 1 (A) Subject to clause (B), the organization originates only one
 2 (1) or both of the following types of mortgage transactions:
 3 (i) Zero (0) interest first lien mortgage transactions.
 4 (ii) Zero (0) interest subordinate lien mortgage transactions.
 5 (B) The organization does not require, under the terms of the
 6 mortgage or otherwise, balloon payments with respect to the
 7 mortgage transactions described in clause (A).
 8 (C) The organization is exempt from federal income taxation
 9 under Section 501(c)(3) of the Internal Revenue Code.
 10 (D) The organization's primary purpose is to serve the public
 11 by helping low income individuals and families build, repair,
 12 and purchase housing.
 13 (E) The organization uses only:
 14 (i) unpaid volunteers; or
 15 (ii) employees whose compensation is not based on the
 16 number or size of any mortgage transactions that the
 17 employees originate;
 18 to originate the mortgage transactions described in clause (A).
 19 (F) The organization does not charge loan origination fees in
 20 connection with the mortgage transactions described in clause
 21 (A).
 22 (15) A bona fide nonprofit organization (as defined in section
 23 301.5(45) of this chapter) if the following criteria are satisfied:
 24 (a) For each calendar year that the organization seeks the
 25 exemption provided by this subdivision, the organization
 26 certifies, not later than December 31 of the preceding calendar
 27 year and on a form prescribed by the director and accompanied
 28 by such documentation as required by the director, that the
 29 organization is a bona fide nonprofit organization (as defined
 30 in section 301.5(45) of this chapter).
 31 (b) The director determines that the organization originates
 32 only mortgage transactions that are favorable to the debtor. For
 33 purposes of this clause, a mortgage transaction is favorable to
 34 the debtor if the director determines that the terms of the
 35 mortgage transaction are consistent with terms of mortgage
 36 transactions made in a public or charitable context, rather than
 37 in a commercial context.
 38 SECTION 10. IC 24-4.5-2-204 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 204. Deferral Charges
 40 — (1) With respect to a precomputed consumer credit sale,
 41 refinancing, or consolidation, the parties before or after default may
 42 agree in writing to a deferral of all or part of one (1) or more unpaid



1 instalments, and the seller may make and collect a charge not
 2 exceeding **the lesser of thirty-six percent (36%) per year or** the rate
 3 previously stated to the buyer pursuant to the provisions on disclosure
 4 (Part 3) applied to the amount or amounts deferred for the period of
 5 deferral calculated without regard to differences in lengths of months,
 6 but proportionately for a part of a month, counting each day as
 7 one-thirtieth (1/30) of a month. A deferral charge may be collected at
 8 the time it is assessed or at any time thereafter.

9 (2) The seller, in addition to the deferral charge, may make
 10 appropriate additional charges (~~24-4.5-2-202~~), **(IC 24-4.5-2-202)**, and
 11 the amount of these charges which is not paid in cash may be added to
 12 the amount deferred for the purpose of calculating the deferral charge.

13 (3) The parties may agree in writing at the time of a precomputed
 14 consumer credit sale, refinancing, or consolidation that if an instalment
 15 is not paid within ten (10) days after its due date, the seller may
 16 unilaterally grant a deferral and make charges as provided in this
 17 section. No deferral charge may be made for a period after the date that
 18 the seller elects to accelerate the maturity of the agreement.

19 (4) A delinquency charge made by the seller on an instalment may
 20 not be retained if a deferral charge is made pursuant to this section with
 21 respect to the period of delinquency.

22 SECTION 11. IC 24-4.5-2-407, AS AMENDED BY P.L.137-2014,
 23 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2015]: Sec. 407. (1) With respect to a consumer credit sale,
 25 a seller may take a security interest in the property sold. In addition, a
 26 seller may take a security interest in goods upon which services are
 27 performed or in which goods sold are installed or to which they are
 28 annexed, or in land to which the goods are affixed or which is
 29 maintained, repaired or improved as a result of the sale of the goods or
 30 services, if, in the case of a subordinate lien mortgage transaction, the
 31 debt secured is four thousand dollars (\$4,000) or more, or, in the case
 32 of a security interest in goods the debt secured is three hundred dollars
 33 (\$300) or more. Except as provided with respect to cross-collateral
 34 (IC 24-4.5-2-408), a seller may not otherwise take a security interest in
 35 property of the buyer to secure the debt arising from a consumer credit
 36 sale.

37 (2) With respect to a consumer lease, a lessor may not take a
 38 security interest in property of the lessee to secure the debt arising from
 39 the lease.

40 (3) A security interest taken in violation of this section is void.

41 (4) The amounts of four thousand dollars (\$4,000) and three
 42 hundred dollars (\$300) in subsection (1) are subject to change pursuant



to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).
However, notwithstanding IC 24-4.5-1-106(1), the Reference Base
Index to be used ~~under this subsection~~ **with respect to the amount of:**

(a) three hundred dollars (\$300) is the Index for October 1992;

and

(b) four thousand dollars (\$4,000) is the Index for October 2012.

SECTION 12. IC 24-4.5-3-204 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 204. Deferral Charges

— (1) With respect to a precomputed consumer loan, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one **(1)** or more unpaid instalments, and the lender may make and collect a charge not exceeding **the lesser of thirty-six percent (36%) per year or** the rate previously stated to the debtor pursuant to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to difference in the lengths of months, but proportionally for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The lender, in addition to the deferral charge, may make appropriate additional charges (~~24-4.5-3-202~~); **(IC 24-4.5-3-202)**, and the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer loan, refinancing, or consolidation that if an instalment is not paid within ten (10) days after its due date, the lender may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the lender elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the lender on an instalment may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

SECTION 13. IC 24-4.5-3-501.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 501.5. (1) If a person licensed or required to be licensed under section 502.1 of this chapter also engages in the loan brokerage business, the person's loan brokerage business is subject to the following sections of the Indiana Code and any rules adopted to implement these sections:**

(a) IC 23-2-5-9.

(b) IC 23-2-5-9.1.



- (c) IC 23-2-5-15.
- (d) IC 23-2-5-16.
- (e) IC 23-2-5-17.
- (f) IC 23-2-5-18.
- (g) IC 23-2-5-18.5.
- (h) IC 23-2-5-20.
- (i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).
- (j) IC 23-2-5-24.

(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under section 502.1 of this chapter are subject to examination by the department and to the examination fees described in section 503(8)(b) of this chapter. The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.

SECTION 14. IC 24-4.5-3-502, AS AMENDED BY P.L.35-2010, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 502. (1) A person that is a:

- (a) depository institution;
- (b) subsidiary that is owned and controlled by a depository institution **and regulated by a federal banking agency**; or
- (c) credit union service organization;

may engage **in Indiana** in the making of consumer loans **(including small loans that are subject to IC 24-4.5-7)** that are not mortgage transactions without obtaining a license under this article.

(2) A collection agency licensed under IC 25-11-1 may engage in:

- (a) taking assignments of consumer loans ~~in Indiana~~; **(including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions**; and
- (b) undertaking ~~the~~ direct collection of payments from or ~~the~~ enforcement of rights ~~in Indiana~~ against debtors arising from consumer loans **(including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions**;

in Indiana without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall acquire and retain a license under this ~~article~~ **chapter** in order to regularly engage in Indiana in the following actions with respect to consumer loans that are not **small loans (as defined in IC 24-4.5-7-104)** or mortgage transactions:

- (a) The making of consumer loans.
- (b) Taking assignments of consumer loans.



(c) Undertaking ~~the~~ direct collection of payments from or ~~the~~ enforcement of rights against debtors arising from consumer loans.

(4) A separate license under this ~~article~~ **chapter** is required for each legal entity that engages in Indiana in any activity described in subsection (3). However, a separate license under this ~~article~~ **chapter** is not required for each branch of a legal entity licensed under this ~~article~~ **chapter** to perform an activity described in subsection (3).

(5) Except as otherwise provided in subsections (1) and (2), a separate license under IC 24-4.5-7 is required in order to regularly engage in Indiana in the following actions with respect to small loans (as defined in IC 24-4.5-7-104):

(a) The making of small loans (as defined in IC 24-4.5-7-104).

(b) Taking assignments of small loans (as defined in IC 24-4.5-7-104).

(c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from small loans (as defined in IC 24-4.5-7-104).

A person that seeks licensure under IC 24-4.5-7 in order to regularly engage in Indiana in the actions set forth in this subsection shall apply to the department for that license in the form and manner prescribed by the department, and is subject to the same licensure requirements and procedures as an applicant for a license to make consumer loans (other than small loans or mortgage transactions) under this section.

SECTION 15. IC 24-4.5-3-502.1, AS AMENDED BY P.L.103-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 502.1. ~~(1) Unless a person:~~

~~(a) is a depository institution;~~

~~(b) is a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency;~~

~~(c) is an institution regulated by the Farm Credit Administration;~~
~~or~~

~~(d) has first obtained, and subsequently retains, a license from the department under this article;~~

the person shall not regularly engage in Indiana as a creditor in subordinate lien mortgage transactions; take assignments in Indiana of subordinate lien mortgage transactions; or undertake in the direct collection of payments from or enforcement of rights against debtors in Indiana arising from subordinate lien mortgage transactions:

(1) A person that is a:

(a) depository institution;



1 (b) subsidiary that is owned and controlled by a depository
 2 institution and regulated by a federal banking agency; or
 3 (c) credit union service organization;
 4 may engage in Indiana in the making of subordinate lien mortgage
 5 transactions without obtaining a license under this article.

6 (2) A collection agency licensed under IC 25-11-1 or an
 7 institution regulated by the Farm Credit Administration may
 8 engage in:

9 (a) taking assignments of subordinate lien mortgage
 10 transactions; and
 11 (b) undertaking the direct collection of payments from or the
 12 enforcement of rights against debtors arising from
 13 subordinate lien mortgage transactions;
 14 in Indiana without obtaining a license under this article.

15 (3) A person that does not qualify under subsection (1) or (2)
 16 shall acquire and retain a license relating to subordinate lien
 17 mortgage transactions under this chapter in order to regularly
 18 engage in Indiana in the following actions with respect to
 19 subordinate lien mortgage transactions:

20 (a) The making of subordinate lien mortgage loans.
 21 (b) Taking assignments of subordinate lien mortgage loans.
 22 (c) Undertaking the direct collection of payments from or the
 23 enforcement of rights against debtors arising from
 24 subordinate lien mortgage loans.

25 ~~(2)~~ (4) Each:

26 (a) creditor licensed by the department under this ~~article~~ **chapter**
 27 **to engage in subordinate lien mortgage transactions;** and
 28 (b) entity that is exempt from licensing under this article or under
 29 IC 24-4.4-1-202(b)(6)(a) and that:

30 (i) employs a licensed mortgage loan originator; or
 31 (ii) sponsors under an exclusive written agreement, as
 32 permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage
 33 loan originator as an independent agent;

34 shall register with and maintain a valid unique identifier issued by the
 35 NMLSR. Each licensed mortgage loan originator must be employed by,
 36 or sponsored under an exclusive written agreement (as permitted by
 37 IC 24-4.4-1-202(b)(6)(a)) and as an independent agent, and associated
 38 with, a ~~licensed~~ creditor **licensed under this chapter to engage in**
 39 **subordinate lien mortgage transactions** or an exempt entity
 40 described under subdivision (b) in the NMLSR in order to originate
 41 loans.

42 ~~(3)~~ (5) Applicants for a license **to engage in subordinate lien**



1 **mortgage transactions** must apply for a license under this chapter in
2 a form prescribed by the director. Each form:

3 (a) must contain content as set forth by rule, instruction, or
4 procedure of the director; and

5 (b) may be changed or updated as necessary by the director to
6 carry out the purposes of this article.

7 ~~(4)~~ **(6)** To fulfill the purposes of this article, the director may
8 establish relationships or contracts with the NMLSR or other entities
9 designated by the NMLSR to:

10 (a) collect and maintain records; and

11 (b) process transaction fees or other fees;
12 related to licensees or other persons subject to this article.

13 ~~(5)~~ **(7)** For the purpose of participating in the NMLSR, the director
14 or the department may:

15 (a) waive or modify, in whole or in part, by rule, regulation, or
16 order, any or all of the requirements of this article; and

17 (b) establish new requirements as reasonably necessary to
18 participate in the NMLSR.

19 SECTION 16. IC 24-4.5-3-504, AS AMENDED BY P.L.27-2012,
20 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2015]: Sec. 504. (1) The department may issue to a person
22 licensed to:

23 (a) make consumer loans; or

24 (b) engage in consumer credit sales that are mortgage
25 transactions;

26 an order to show cause why the license should not be revoked or
27 suspended for a period determined by the department.

28 (2) An order issued under subsection (1) must:

29 (a) include:

30 (i) a statement of the place, date, and time for a meeting with
31 the department, which date may not be less than ten (10) days
32 from the date of the order;

33 (ii) a description of the action contemplated by the department;
34 and

35 (iii) a statement of the facts or conduct supporting the issuance
36 of the order; and

37 (b) be accompanied by a notice stating that the licensee is entitled
38 to:

39 (i) a reasonable opportunity to be heard; and

40 (ii) show the licensee's compliance with all lawful
41 requirements for retention of the license;

42 at the meeting described in subdivision (a)(i).



(3) After the meeting described in subsection (2)(a)(i), the department may revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated:

(i) this article or any **applicable** rule, order, or guidance document adopted or issued by the department; or

(ii) any other state or federal laws, rules, or regulations applicable to consumer credit transactions;

(b) the licensee does not meet the licensing qualifications under section 503 of this chapter;

(c) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;

(d) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the department; or

(e) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and forthwith notify the licensee of:

(a) the revocation or suspension;

(b) if a suspension has been ordered, the duration of the suspension;

(c) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and

(d) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to make consumer loans may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) If the director determines it is in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

(7) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any preexisting lawful contract.



(8) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 17. IC 24-4.5-3-510, AS AMENDED BY P.L.137-2014, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 510. Restrictions on Interest in Land as Security — (1) With respect to a supervised loan in which the principal is four thousand dollars (\$4,000) or less, a lender may not contract for an interest in land as security. A security interest taken in violation of this section is void.

(2) The amount of four thousand dollars (\$4,000) in subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October ~~1992~~: **2012**.

SECTION 18. IC 24-4.5-3-511, AS AMENDED BY P.L.137-2014, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 511. Regular Schedule of Payments; Maximum Loan Term — (1) Supervised loans not made pursuant to a revolving loan account and in which the principal is four thousand dollars (\$4,000) or less are payable in a single instalment or shall be scheduled to be payable in substantially equal instalments that are payable at equal periodic intervals, except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor, and:

(a) over a period of not more than thirty-seven (37) months if the principal is more than three hundred dollars (\$300), or

(b) over a period of not more than twenty-five (25) months if the principal is three hundred dollars (\$300) or less.

(2) The amounts of three hundred dollars (\$300) and four thousand dollars (\$4,000) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used ~~under this subsection~~ **with respect to the amount of:**

(1) three hundred dollars (\$300) is the Index for October 1992; and

(2) four thousand dollars (\$4,000) is the Index for October 2012.

SECTION 19. IC 24-4.5-5-103, AS AMENDED BY P.L.137-2014, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 103. Restrictions on Deficiency Judgments in



Consumer Credit Sales — (1) This section applies to a consumer credit sale of goods or services.

(2) If the seller repossesses or voluntarily accepts surrender of goods which were the subject of the sale and in which the seller has a security interest, and the cash price of the goods repossessed or surrendered was four thousand dollars (\$4,000) or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale of the goods, and the seller is not obligated to resell the collateral.

(3) If the seller repossesses or voluntarily accepts surrender of goods which were not the subject of the sale but in which the seller has a security interest to secure a debt arising from a sale of goods or services or a combined sale of goods and services and the cash price of the sale was four thousand dollars (\$4,000) or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale.

(4) For the purpose of determining the unpaid balance of consolidated debts or debts pursuant to revolving charge accounts, the allocation of payments to a debt shall be determined in the same manner as provided for determining the amount of debt secured by various security interests (IC 24-4.5-2-409).

(5) The buyer may be liable in damages to the seller if the buyer has wrongfully damaged the collateral or if, after default and demand, the buyer has wrongfully failed to make the collateral available to the seller.

(6) If the seller elects to bring an action against the buyer for a debt arising from a consumer credit sale of goods or services, and under this section the seller would not be entitled to a deficiency judgment if the seller repossessed the collateral, and the seller obtains a judgment:

(a) the seller may not repossess the collateral; and

(b) the collateral is not subject to levy or sale on execution or similar proceedings pursuant to the judgment.

(7) The amounts of four thousand dollars (\$4,000) in subsections (2) and (3) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October ~~1992~~ **2012**.

SECTION 20. IC 24-4.5-6-106, AS AMENDED BY P.L.216-2013, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 106. (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the department may examine the records of persons and may make investigations of



persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

- (a) Training, operating, and policy manuals.
- (b) Minutes of:
 - (i) management meetings; and
 - (ii) other meetings.
- (c) Other records that the department determines are necessary to perform its investigation or examination.

The department may also administer oaths or affirmations, subpoena witnesses, and compel the attendance of witnesses, including directors, executive officers, managers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this article. The department may also adduce evidence, and require the production of any matter which is relevant to the investigation. The department shall determine the sufficiency of the records maintained and whether the person has made the required information reasonably available. The records pertaining to any transaction subject to this article shall be retained for two (2) years after making the final entry relating to the consumer credit transaction, but in the case of a revolving loan account or revolving charge account, the two (2) years is measured from the date of each entry.

(2) The department's examination and investigatory authority under this article includes the following:

- (a) The authority to require a creditor to refund overcharges resulting from the creditor's noncompliance with the terms of consumer credit sales, consumer leases, or consumer loans.
- (b) The authority to require a creditor to comply with the prepayment penalty provisions set forth in IC 24-4.5-3-209.
- (c) The authority to investigate complaints filed with the department by debtors.

(3) If the department:

- (a) investigates; or
- (b) examines the books and records of;

a person that is subject to IC 24-4.5-6-201, IC 24-4.5-6-202, and IC 24-4.5-6-203, the person shall pay all reasonably incurred costs of the investigation or examination in accordance with the fee schedule adopted by the department under IC 28-11-3-5. However, the person is liable for the costs of an investigation or examination under this subsection only to the extent that the costs exceed the amount of the filing fees paid most recently under IC 24-4.5-6-203. Any costs required to be paid under this ~~subsection~~ **section** shall be paid not later



1 than sixty (60) days after the person receives a notice from the
 2 department of the costs being assessed. The department may impose a
 3 fee, in an amount fixed by the department under IC 28-11-3-5, for each
 4 day that the assessed costs are not paid, beginning on the first day after
 5 the sixty (60) day period described in this subsection.

6 (4) The department shall be given free access to the records
 7 wherever located. In making any examination or investigation
 8 authorized by this article, the director may control access to any
 9 documents and records of the licensee or person under examination or
 10 investigation. The director may take possession of the documents and
 11 records or place a person in exclusive charge of the documents and
 12 records in the place where the documents are usually kept. During the
 13 period of control, the licensee or person may not remove or attempt to
 14 remove any of the documents and records except under a court order
 15 or with the consent of the director. Unless the director has reasonable
 16 grounds to believe the documents or records of the licensee or person
 17 have been, or are, at risk of being altered or destroyed for purposes of
 18 concealing a violation of this article, the licensee or person being
 19 examined or investigated is entitled to access to the documents or
 20 records as necessary to conduct the licensee's or person's ordinary
 21 business affairs. If the person's records are located outside Indiana, the
 22 records shall be made available to the department at a convenient
 23 location within Indiana, or the person shall pay the reasonable and
 24 necessary expenses for the department or its representative to examine
 25 them where they are maintained. The department may designate
 26 comparable officials of the state in which the records are located to
 27 inspect them on behalf of the department.

28 (5) Upon a person's failure without lawful excuse to obey a
 29 subpoena or to give testimony and upon reasonable notice to all
 30 affected persons, the department may apply to any civil court with
 31 jurisdiction for an order compelling compliance.

32 (6) The department shall not make public the name or identity of a
 33 person whose acts or conduct the department investigates pursuant to
 34 this section or the facts disclosed in the investigation, but this
 35 subsection does not apply to disclosures in actions or enforcement
 36 proceedings pursuant to this article.

37 (7) To discover violations of this article or to secure information
 38 necessary for the enforcement of this article, the department may
 39 investigate any:

40 (a) licensee or registrant; or

41 (b) person that the department suspects to be operating:

42 (i) without a license or registration, when a license or



1 registration is required under this article; or

2 (ii) otherwise in violation of this article.

3 The department has all investigatory and enforcement authority under
4 this article that the department has under IC 28-11 with respect to
5 financial institutions. If the department conducts an investigation under
6 this section, the licensee, registrant, or other person investigated shall
7 pay all reasonably incurred costs of the investigation in accordance
8 with the fee schedule adopted under IC 28-11-3-5. **Any costs required**
9 **to be paid under this section shall be paid not later than sixty (60)**
10 **days after the person receives a notice from the department of the**
11 **costs being assessed. The department may impose a fee, in an**
12 **amount fixed by the department under IC 28-11-3-5, for each day**
13 **that the assessed costs are not paid, beginning on the first day after**
14 **the sixty (60) day period described in this subsection.**

15 (8) If a creditor contracts with an outside vendor to provide a service
16 that would otherwise be undertaken internally by the creditor and be
17 subject to the department's routine examination procedures, the person
18 that provides the service to the creditor shall, at the request of the
19 director, submit to an examination by the department. If the director
20 determines that an examination under this subsection is necessary or
21 desirable, the examination may be made at the expense of the person
22 to be examined. If the person to be examined under this subsection
23 refuses to permit the examination to be made, the director may order
24 any creditor that is licensed under this article and that receives services
25 from the person refusing the examination to:

26 (a) discontinue receiving one (1) or more services from the
27 person; or

28 (b) otherwise cease conducting business with the person.

29 SECTION 21. IC 24-4.5-7-102, AS AMENDED BY P.L.137-2014,
30 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2015]: Sec. 102. (1) Except as otherwise provided, all
32 provisions of this article applying to consumer loans, including
33 IC 24-4.5-3-502.2, apply to small loans, as defined in this chapter.

34 **(2) Subject to subsection (7), a person may not regularly engage**
35 **in Indiana in any of the following actions unless the department**
36 **first issues to the person a license under this chapter:**

37 (a) The making of small loans.

38 (b) Taking assignments of small loans.

39 (c) Undertaking the direct collection of payments from or the
40 enforcement of rights against debtors arising from small
41 loans.

42 **(3) Subject to subsection (4), a person that seeks licensure under**



1 this chapter:

2 (1) shall apply to the department for a license in the form and
3 manner prescribed by the department; and

4 (2) is subject to the same licensure requirements and
5 procedures as an applicant for a license to make consumer
6 loans (other than mortgage transactions) under
7 IC 24-4.5-3-502.

8 (4) A person that seeks to make, take assignments of, or
9 undertake the direct collection of payments from or the
10 enforcement of rights against debtors arising from both:

11 (1) small loans under this chapter; and

12 (2) consumer loans (other than mortgage transactions) that
13 are not small loans;

14 must obtain a separate license from the department for each type
15 of loan, as described in IC 24-4.5-3-502(5).

16 ~~(2)~~ (5) This chapter applies to:

17 (a) a lender or to any person who facilitates, enables, or acts as a
18 conduit for any person who is or may be exempt from licensing
19 under IC 24-4.5-3-502;

20 (b) a bank, savings association, credit union, or other state or
21 federally regulated financial institution except those that are
22 specifically exempt regarding limitations on interest rates and
23 fees; or

24 (c) a person, if the department determines that a transaction is:

25 (i) in substance a disguised loan; or

26 (ii) the application of subterfuge for the purpose of avoiding
27 this chapter.

28 ~~(3)~~ (6) A loan that:

29 (a) does not qualify as a small loan under section 104 of this
30 chapter;

31 (b) is for a term shorter than that specified in section 401(1) of
32 this chapter; or

33 (c) is made in violation of section 201, 401, 402, 404, or 410 of
34 this chapter;

35 is subject to this article. The department may conform the finance
36 charge for a loan described in this subsection to the limitations set forth
37 in IC 24-4.5-3-508.

38 (7) Notwithstanding IC 24-4.5-1-301.5(39), for purposes of
39 subsection (2), a person "regularly engages" in any of the activities
40 described in subsection (2) with respect to a small loan if the
41 person:

42 (a) performed any of the activities described in subsection (2)



1 with respect to a small loan at least one (1) time in the
2 preceding calendar year; or

3 (b) performs or will perform any of the activities described in
4 subsection (2) with respect to a small loan at least one (1) time
5 in the current calendar year if the person did not perform any
6 of the activities described in subsection (2) with respect to a
7 small loan at least one (1) time in the preceding calendar year.

8 SECTION 22. IC 24-4.5-7-111, AS ADDED BY P.L.57-2006,
9 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2015]: Sec. 111. "Lender" means a person ~~licensed~~ **that**
11 **acquires and retains a license issued** by the department of financial
12 institutions under this chapter to engage in small loans.

13 SECTION 23. IC 24-4.5-7-401, AS AMENDED BY P.L.217-2007,
14 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2015]: Sec. 401. (1) A small loan may not be made for a term
16 of less than fourteen (14) days.

17 (2) If five (5) consecutive small loans have been made to a borrower
18 after the borrower's initial small loan, another small loan may not be
19 made to that borrower within seven (7) days after the fifth consecutive
20 small loan is paid in full. After the borrower's fifth consecutive small
21 loan, the balance must be paid in full.

22 (3) Subject to subsection (4), whenever a borrower has entered into
23 an initial small loan followed by three (3) consecutive small loans, the
24 lender shall offer the borrower the option to repay:

25 (a) the third consecutive small loan; and

26 (b) subject to subsection (2), any small loan entered into after the
27 third consecutive small loan;

28 under an extended payment plan. At the time of execution of a small
29 loan described in subdivision (a) or (b), the lender shall disclose to the
30 borrower the extended payment plan option by providing the borrower
31 a written description of the extended payment plan option in a separate
32 disclosure document approved by the director.

33 (4) A lender shall offer an extended payment plan under subsection
34 (3) under the following terms and conditions:

35 (a) A borrower shall be permitted to request an extended payment
36 plan at any time during the term of a third or subsequent
37 consecutive small loan if the borrower has not defaulted on the
38 outstanding small loan.

39 (b) An extended payment plan must allow the outstanding small
40 loan to be paid in at least four (4) equal installments over a period
41 of not less than sixty (60) days.

42 (c) An agreement for an extended payment plan may not



require a borrower to pay any amount before the original maturity date of the outstanding small loan.

~~(c)~~ **(d)** The lender may not assess any fee or charge on a borrower for entering into an extended payment plan.

~~(d)~~ **(e)** An agreement for an extended payment plan must be in writing and acknowledged by both the borrower and the lender.

~~(e)~~ **(f)** A borrower may not enter into another small loan transaction while engaged in an extended payment plan.

(g) A lender may not compel or require a borrower to pay off an outstanding small loan that is eligible for an extended payment plan and to subsequently enter into a new small loan with the lender if the borrower and lender have not entered into an extended payment plan with respect to the eligible outstanding small loan.

(5) An agreement for an extended payment plan under subsection (3):

(a) shall be considered an extension of the outstanding small loan; and

(b) may not be considered a new loan.

SECTION 24. IC 24-7-7-2, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2015 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:
Sec. 2. (a) A person subject to this article shall make the books and records of the person reasonably available for inspection by the department or the department's representative. At a minimum, every lessor shall keep a record of all payments remitted by the lessee on a rental purchase agreement, including the following:

(1) The name of the lessee.

(2) The date of each transaction.

(3) The total amount of each payment.

(4) A breakdown of each payment reflecting:

(A) each type of charge; and

(B) the amount of each type of charge.

The method of maintaining this data is at the discretion of the lessor, if hard copies of the required data are readily available. The record keeping system of the lessor shall be made available in Indiana for examination. The director shall determine the sufficiency of the records and whether the lessor has made the required information reasonably available.

(b) In administering this article and in order to determine compliance with this article, the department or the department's representative may examine the books and records of persons subject



1 to the article and may make investigations of persons necessary to
 2 determine compliance. For this purpose, the department may
 3 administer oaths or affirmations, and, upon the department's own
 4 motion or upon request of any party, may subpoena witnesses, compel
 5 their attendance, compel testimony, and require the production of any
 6 matter that is relevant to the investigation, including the existence,
 7 description, nature, custody, condition, and location of any books,
 8 documents, or other tangible things and the identity and location of
 9 persons having knowledge of relevant facts, or any other matter
 10 reasonably calculated to lead to the discovery of admissible evidence.

11 (c) If the person's records are located outside Indiana, the person
 12 shall, at the person's option, either make them available to the
 13 department at a convenient location in Indiana, or pay the reasonable
 14 and necessary expenses for the department or the department's
 15 representative to examine them at the place where they are maintained.
 16 The department may designate representatives, including comparable
 17 officials of the state in which the records are located, to inspect them
 18 on the department's behalf.

19 (d) Upon failure without lawful excuse to obey a subpoena or to
 20 give testimony and upon reasonable notice to all persons affected
 21 thereby, the department may apply to a court for an order compelling
 22 compliance.

23 (e) The department may not make public the name or identity of a
 24 person whose acts or conduct the department investigates under this
 25 section or the facts disclosed in the investigation, but this subsection
 26 does not apply to disclosures in actions or enforcement proceedings
 27 under this article.

28 (f) A lessor shall use generally accepted accounting principles and
 29 practices in keeping books and records so that the department or the
 30 department's representative may determine if the lessor is in
 31 compliance with this article or a rule adopted under this article.

32 (g) A lessor shall keep the lessor's books and records that pertain to
 33 a rental purchase agreement for at least two (2) years after the rental
 34 purchase agreement has terminated.

35 (h) To discover violations of this article or to secure information
 36 necessary for the enforcement of this article, the department may
 37 investigate:

38 (1) any person subject to this article; and

39 (2) any person that the department suspects to be operating in
 40 violation of **this** article.

41 The department has all investigatory and enforcement authority under
 42 this article that the department has under IC 28-11 with respect to



1 financial institutions. If the department conducts an investigation under
 2 this section, the person investigated shall pay all reasonably incurred
 3 costs of the investigation in accordance with the fee schedule adopted
 4 under IC 28-11-3-5. **Any costs required to be paid under this section**
 5 **shall be paid not later than sixty (60) days after the person receives**
 6 **a notice from the department of the costs being assessed. The**
 7 **department may impose a fee, in an amount fixed by the**
 8 **department under IC 28-11-3-5, for each day that the assessed**
 9 **costs are not paid, beginning on the first day after the sixty (60)**
 10 **day period described in this subsection.**

11 (i) If a lessor contracts with an outside vendor to provide a service
 12 that would otherwise be undertaken internally by the lessor and be
 13 subject to the department's routine examination procedures, the person
 14 that provides the service to the lessor shall, at the request of the
 15 director, submit to an examination by the department. If the director
 16 determines that an examination under this subsection is necessary or
 17 desirable, the examination may be made at the expense of the person
 18 to be examined. If the person to be examined under this subsection
 19 refuses to permit the examination to be made, the director may order
 20 any lessor that receives services from the person refusing the
 21 examination to:

22 (1) discontinue receiving one (1) or more services from the
 23 person; or

24 (2) otherwise cease conducting business with the person.

25 SECTION 25. IC 28-1-11-4, AS AMENDED BY P.L.27-2012,
 26 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2015]: Sec. 4. (a) Except as otherwise provided in this article,
 28 the business of dealing in investment securities by any bank or trust
 29 company is limited to purchasing and selling securities without
 30 recourse, solely upon the order and for the account of customers and in
 31 no event for its own account. A bank or trust company may not
 32 underwrite or guarantee all or any part of any issue of securities other
 33 than obligations issued or guaranteed by or on behalf of the state or any
 34 political subdivision of the state or any agency or instrumentality of
 35 either. A bank or trust company may purchase for its own account and
 36 sell investment securities under such limitations and restrictions as the
 37 department prescribes by regulation, rule, policy, or guidance, but in no
 38 event may the total amount of the investment securities of any one (1)
 39 obligor or maker, purchased or held by a bank or trust company for its
 40 own account, exceed at any time ten percent (10%) of the amount of
 41 the total equity capital of the bank or trust company. The limitations
 42 imposed by this section do not apply to the direct or indirect obligations



of the United States or the direct obligations of a United States territory or insular possession or of the state of Indiana or any municipal corporation or taxing district in Indiana. A bank or trust company may purchase for its own account and sell shares of stock in federal or state chartered small business investment companies that have received a permit or license to operate under the federal Small Business Investment Act (15 U.S.C. 681). However, a bank or trust company may not acquire shares in any small business investment company if, upon the making of that acquisition, the aggregate amount of shares in small business investment companies then held by the bank would exceed five percent (5%) of its total equity capital.

(b) A bank or trust company may purchase for its own account and sell:

(1) shares of open-end investment companies the portfolios of which consist solely of securities that are eligible for purchase and sale by national banking associations; and

(2) collateralized obligations that are eligible for purchase and sale by national banking associations. However, a bank or trust company may purchase for its own account and sell the obligations only to the extent that a national banking association can purchase and sell those obligations.

(c) A bank or trust company may deposit its funds in:

(1) a federally chartered savings association; **or**

(2) a savings association or other entity organized and operated according to federal law or the laws of any state or the District of Columbia; **or**

(3) a bank organized and operated according to federal law or the laws of any state or the District of Columbia;

the accounts of which are insured by the Federal Deposit Insurance Corporation.

(d) A bank or trust company may not purchase for its own account any bond, note, or other evidence of indebtedness that is commonly designated as a security that is speculative in character or that has speculative characteristics. For the purposes of this subsection, a security is speculative or has speculative characteristics if at the time of purchase the security:

(1) is rated below the first four (4) rating classes by a generally recognized security rating service;

(2) is in default; or

(3) is otherwise considered speculative by the director.

(e) A bank or trust company may purchase for its own account a security that is not rated by a generally recognized security rating



1 service if:

2 (1) the bank or trust company at the time of purchase obtains
3 financial information that is adequate to document the investment
4 quality of the security; and

5 (2) the security is not otherwise considered speculative by the
6 director.

7 (f) Except as otherwise authorized by this title, a bank or trust
8 company may not purchase any share of stock of a corporation that is
9 not a subsidiary of that bank or trust company unless the purchase is
10 considered expedient to prevent loss from a debt previously contracted
11 in good faith. Any shares of stock thus acquired by a bank or trust
12 company that would not have been eligible for purchase shall be sold
13 and disposed of within six (6) months from the date of acquisition
14 unless the director grants an extension of time for the sale and
15 disposition.

16 (g) Notwithstanding any other provision of this article, a bank or
17 trust company may purchase for its own account shares of stock of a
18 banker's bank insured by the Federal Deposit Insurance Corporation or
19 a holding company that owns or controls a banker's bank insured by the
20 Federal Deposit Insurance Corporation. For the purposes of this
21 subsection, a "banker's bank" is a bank (as defined in IC 28-2-14-2):

22 (1) the stock of which is owned exclusively by other banks (as
23 defined in IC 28-2-14-2), or by a bank holding company the stock
24 of which is owned exclusively by other banks (as defined in
25 IC 28-2-14-2); and

26 (2) that is engaged exclusively in providing services to other
27 banks (as defined in IC 28-2-14-2), and to their officers, directors,
28 and employees.

29 A bank's or trust company's holdings of the stock of an insured banker's
30 bank or of a holding company that owns or controls an insured banker's
31 bank may not exceed ten percent (10%) of the capital and surplus of
32 the bank or trust company. A bank or trust company may not purchase
33 the stock of an insured banker's bank or of a holding company that
34 owns or controls an insured banker's bank if, after the purchase, the
35 bank or trust company would own more than five percent (5%) of any
36 class of voting securities of the banker's bank or holding company.

37 (h) Notwithstanding any other provision of this article, a bank or
38 trust company may invest in a casualty insurance company organized
39 solely for the purpose of insuring banks, trust companies, and bank
40 holding companies and their officers and directors from and against
41 liabilities, including those covered by bankers' blanket bonds and
42 director and officer liability insurance and other public liability



insurance. The investment must take the form of:

- (1) the purchase for the bank's or trust company's own account of shares of stock of the casualty insurance company or shares of stock of an association of banks organized for the purpose of funding the casualty insurance company; or
- (2) loans to such an association of banks.

The total investment of any bank or trust company under this subsection may not exceed five percent (5%) of the capital and surplus of the bank or trust company.

(i) Any bank or trust company may establish or acquire a subsidiary that engages in:

- (1) the sale, distribution, or underwriting of securities issued by investment companies (as defined in Section 3 of the Investment Company Act of 1940 (15 U.S.C. 80a-3); or
- (2) the underwriting or distribution of securities backed by or representing an interest in mortgages.

(j) As used in this section, "total equity capital" means unimpaired capital stock, unimpaired surplus, unimpaired undivided profits, subordinated debt that has been approved by the state or federal regulatory agencies, and one hundred percent (100%) of loan reserves.

(k) The department may define an investment security by department policy or by rule.

(l) A bank or trust company may establish a trading account for the purchase and resale of securities that are otherwise eligible for purchase or resale by the bank or trust company. The trading account must comply with the requirements established by policy or rule of the department.

(m) A bank or trust company that purchases a security for its own account shall maintain sufficient records of the security to allow the security to be properly identified by the department for examination purposes.

SECTION 26. IC 28-1-20-4, AS AMENDED BY P.L.90-2008, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) Except as provided in subsections (c), (d), (g), and (o), it is unlawful for any person, firm, limited liability company, or corporation (other than a bank or trust company, a bank holding company, a subsidiary of a bank or trust company, a subsidiary of a bank holding company, a subsidiary of a savings bank, or a subsidiary of a savings association organized or reorganized under IC 28 or statutes in effect at the time of organization or reorganization or under the laws of the United States):

- (1) to use the word, **or a derivation of the word**, "bank", "banc",



1 or "banco", or "bankcor", as a part of the name or title of the
 2 person, firm, limited liability company, or corporation **if the use**
 3 **of the word would create a substantial likelihood of**
 4 **misleading the public by implying that the person, firm,**
 5 **limited liability company, or corporation is a state or**
 6 **federally chartered bank, trust company, savings bank, or**
 7 **savings association; or**

8 (2) to advertise or represent the person, firm, limited liability
 9 company, or corporation to the public:

10 (A) as a bank or trust company or a corporate fiduciary; or

11 (B) as affording the services or performing the duties which by
 12 law only a bank or trust company or a corporate fiduciary is
 13 entitled to afford and perform.

14 (b) A financial institution organized under the laws of any state or
 15 the United States is authorized to do business in Indiana:

16 (1) at its principal office;

17 (2) at any branch office; or

18 (3) otherwise;

19 using a name other than its official entity name if the financial
 20 institution notifies the department at least ten (10) days before using
 21 the other name.

22 (c) Notwithstanding the prohibitions of this section, an out-of-state
 23 financial institution with the word "bank" in its legal name may use the
 24 word "bank" if the financial institution is insured by the Federal
 25 Deposit Insurance Corporation or its successor.

26 (d) Notwithstanding subsection (a), a building and loan association
 27 organized under IC 28-4 (before its repeal) may include in its name or
 28 title:

29 (1) the words "savings bank"; or

30 (2) the word "bank" if the name or title also includes either the
 31 words "savings bank" or letters "SB".

32 A building and loan association that includes "savings bank" in its title
 33 under this section does not by that action become a savings bank for
 34 purposes of IC 28-6.1.

35 (e) The name or title of a savings bank governed by IC 28-6.1 must
 36 include the words "savings bank" or the letters "SB".

37 (f) A savings association may include in its name the words
 38 "building and loan association".

39 (g) Notwithstanding subsection (a), a bank holding company (as
 40 defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a
 41 part of its name. However, this subsection does not permit a bank
 42 holding company to advertise or represent itself to the public as



1 affording the services or performing the duties that by law a bank or
2 trust company only is entitled to afford and perform.

3 (h) The department is authorized to investigate the business affairs
4 of any person, firm, limited liability company, or corporation that uses
5 "bank", "banc", or "banco" in its title or holds itself out as a bank,
6 corporate fiduciary, or trust company for the purpose of determining
7 whether the person, firm, limited liability company, or corporation is
8 violating any of the provisions of this article, and, for that purpose, the
9 department and its agents shall have access to any and all of the books,
10 records, papers, and effects of the person, firm, limited liability
11 company, or corporation. In making its examination, the department
12 may examine any person and the partners, officers, members, or agents
13 of the firm, limited liability company, or corporation under oath,
14 subpoena witnesses, and require the production of the books, records,
15 papers, and effects considered necessary. On application of the
16 department, the circuit or superior court of the county in which the
17 person, firm, limited liability company, or corporation maintains a
18 place of business shall, by proper proceedings, enforce the attendance
19 and testimony of witnesses and the production and examination of
20 books, papers, records, and effects.

21 (i) The department is authorized to exercise the powers under
22 IC 28-11-4 against a person, firm, limited liability company, or
23 corporation that improperly holds itself out as a financial institution.

24 (j) A person, firm, limited liability company, or corporation who
25 violates this section is subject to a penalty of five hundred dollars
26 (\$500) per day for each and every day during which the violation
27 continues. The penalty imposed shall be recovered in the name of the
28 state on relation of the department and, when recovered, shall be paid
29 into the financial institutions fund established by IC 28-11-2-9.

30 (k) The word, **or a derivation of the word**, "bank", "banc", **or**
31 "banco", **or "bankcor"** may not be included in the name of a corporate
32 fiduciary **if the inclusion of the word would create a substantial**
33 **likelihood of misleading the public by implying that the corporate**
34 **fiduciary is a state or federally chartered bank, trust company,**
35 **savings bank, or savings association.**

36 (l) A person, firm, limited liability company, or corporation may not
37 use the name of an existing depository financial institution or holding
38 company of a depository financial institution, or a name confusingly
39 similar to that of an existing depository financial institution or holding
40 company of a depository financial institution, when marketing to or
41 soliciting business from a customer or prospective customer if the
42 reference to the existing depository financial institution or holding



company of a depository financial institution is:

(1) without the consent of the existing depository financial institution or holding company of a depository financial institution; and

(2) in a manner that could cause a reasonable person to believe that the marketing material or solicitation:

(A) originated from;

(B) is endorsed by; or

(C) is in any other way the responsibility of;

the existing depository financial institution or holding company of a depository financial institution.

(m) An existing depository financial institution or holding company of a depository financial institution may, in addition to any other remedies available under the law, report an alleged violation of subsection (l) to the department. If the department finds that the marketing material or solicitation in question is in violation of subsection (l), the department may direct the person, firm, limited liability company, or corporation to cease and desist from using that marketing material or solicitation in Indiana. If that person, firm, limited liability company, or corporation persists in using the marketing material or solicitation, the department may impose a civil penalty of up to fifteen thousand dollars (\$15,000) for each violation. Each instance in which the marketing material or solicitation is sent to a customer or prospective customer constitutes a separate violation of subsection (l).

(n) Nothing in subsection (l) or (m) prohibits the use of or reference to the name of an existing depository financial institution or holding company of a depository financial institution in marketing materials or solicitations, if the use or reference does not deceive or confuse a reasonable person regarding whether the marketing material or solicitation:

(1) originated from;

(2) is endorsed by; or

(3) is in any other way the responsibility of;

the existing depository financial institution or holding company of a depository financial institution.

(o) A person, firm, limited liability company, or corporation may use the word, **or a derivation of the word**, "bank", "banc", **or** "banco", **or "bankcor"** if **it the use of the word** would not create a substantial likelihood of misleading the public by implying that the person, firm, limited liability company, or corporation is a state or federally chartered bank, **trust company, or** savings bank, **or savings**



1 **association.**

2 (p) As used in this section, "depository financial institution" has the
3 meaning set forth in IC 28-1-1-6.

4 (q) The department may adopt rules under IC 4-22-2 to implement
5 this section.

6 SECTION 27. IC 28-1-29-4, AS AMENDED BY P.L.27-2012,
7 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2015]: Sec. 4. (a) The department may issue to a licensee an
9 order to show cause why the licensee's license should not be revoked
10 or suspended for a period determined by the department.

11 (b) An order issued under subsection (a) must:

12 (1) include:

13 (A) a statement of the place, date, and time for a meeting with
14 the department, which date may not be less than ten (10) days
15 from the date of the order;

16 (B) a description of the action contemplated by the
17 department; and

18 (C) a statement of the facts or conduct supporting the issuance
19 of the order; and

20 (2) be accompanied by a notice stating that the licensee is entitled
21 to:

22 (A) a reasonable opportunity to be heard; and

23 (B) show the licensee's compliance with all lawful
24 requirements for retention of the license;

25 at the meeting described in subdivision (1)(A).

26 (c) After the meeting described in subsection (b)(1)(A), the
27 department may revoke or suspend the license if the department finds
28 that:

29 (1) the licensee has repeatedly and willfully violated:

30 (A) this chapter or any **applicable** rule, order, or guidance
31 document adopted or issued by the department; or

32 (B) any other state or federal law, regulation, or rule applicable
33 to debt management companies;

34 (2) the licensee does not meet the licensing qualifications set forth
35 in section 5 of this chapter;

36 (3) the licensee obtained the license for the benefit of, or on
37 behalf of, a person who does not qualify for the license;

38 (4) the licensee knowingly or intentionally made material
39 misrepresentations to, or concealed material information from, the
40 department; or

41 (5) facts or conditions exist that, had they existed at the time the
42 licensee applied for the license, would have been grounds for the



department to deny the issuance of the license.

(d) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:

- (1) the revocation or suspension;
- (2) if a suspension has been ordered, the duration of the suspension;
- (3) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- (4) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(e) Any person holding a license to operate a debt management company may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this chapter.

(f) If the director determines it to be in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (e).

(g) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any existing agreement or contract.

(h) If the director of the department has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 28. IC 28-1-29-8, AS AMENDED BY P.L.216-2013, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) An agreement between a licensee and a debtor must:

- (1) be in a written form;
- (2) be dated and signed by the licensee and the debtor;
- (3) include the name of the debtor and the address where the debtor resides;
- (4) include the name, business address, and telephone number of the licensee;
- (5) be delivered to the debtor immediately upon formation of the agreement; and
- (6) disclose the following:



- 1 (A) The services to be provided.
- 2 (B) The amount or method of determining the amount of all
- 3 fees **and charges**, individually itemized, to be paid by the
- 4 debtor.
- 5 (C) The schedule of payments to be made by or on behalf of
- 6 the debtor, including the amount of each payment, the date on
- 7 which each payment is due, and an estimate of the date of the
- 8 final payment.
- 9 (D) If a plan provides for regular periodic payments to
- 10 creditors:
- 11 (i) each creditor of the debtor to which payment will be
- 12 made, the amount owed to each creditor, and any
- 13 concessions the licensee reasonably believes each creditor
- 14 will offer; and
- 15 (ii) the schedule of expected payments to each creditor,
- 16 including the amount of each payment and the date on which
- 17 the payment will be made.
- 18 (E) Each creditor that the licensee believes will not participate
- 19 in the plan and to which the licensee will not direct payment.
- 20 (F) The manner in which the licensee will comply with the
- 21 licensee's obligations under section 9(k) of this chapter.
- 22 (G) A statement that:
- 23 (i) the licensee may terminate the agreement for good cause,
- 24 upon return of unexpended money of the debtor; and
- 25 (ii) the debtor may contact the department with any
- 26 questions or complaints regarding the licensee.
- 27 (H) The address, telephone number, and Internet address or
- 28 web site of the department.
- 29 (b) For purposes of subsection (a)(5), delivery of an electronic
- 30 record occurs when:
- 31 (1) the record is made available in a format in which the debtor
- 32 may retrieve, save, and print the record; and
- 33 (2) the debtor is notified that the record is available.
- 34 (c) An agreement must provide that:
- 35 (1) the debtor has a right to terminate the agreement at any time
- 36 without penalty, notwithstanding the close-out fee as permitted by
- 37 section 8.3(d) of this chapter, or obligation, by giving the licensee
- 38 written or electronic notice, in which event:
- 39 (A) the licensee shall refund all unexpended money that the
- 40 licensee or the licensee's agent has received from or on behalf
- 41 of the debtor for the reduction or satisfaction of the debtor's
- 42 debt; and



- 1 (B) all powers of attorney granted by the debtor to the licensee
- 2 are revoked and ineffective;
- 3 (2) the debtor authorizes any bank insured by the Federal Deposit
- 4 Insurance Corporation in which the licensee or the licensee's
- 5 agent has established a trust account to disclose to the department
- 6 any financial records relating to the trust account;
- 7 (3) the licensee shall notify the debtor within five (5) days after
- 8 learning of a creditor's final decision to reject or withdraw from
- 9 a plan under the agreement; and
- 10 (4) the notice under subdivision (3) must include:
- 11 (A) the identity of the creditor; and
- 12 (B) a statement that the debtor has the right to modify or
- 13 terminate the agreement.
- 14 (d) All creditors included in the plan must be notified of the
- 15 **contract** debtor's and licensee's relationship.
- 16 (e) A licensee shall give to the contract debtor a dated receipt for
- 17 each payment, at the time of the payment, unless the payment is made
- 18 by check, money order, or automated clearinghouse withdrawal as
- 19 authorized by the contract debtor.
- 20 (f) A licensee shall, upon cancellation by a contract debtor of the
- 21 agreement, notify immediately in writing all creditors in the debt
- 22 management plan of the cancellation by the contract debtor.
- 23 (g) A licensee may not enter into an agreement with a debtor unless
- 24 a thorough, written budget analysis of the debtor indicates that the
- 25 debtor can reasonably meet the payments required under a proposed
- 26 plan. The following must be included in the budget analysis:
- 27 (1) Documentation and verification of all income considered. All
- 28 income verification must be dated not more than sixty (60) days
- 29 before the completion of the budget analysis.
- 30 (2) Monthly living expense figures, which must be reasonable for
- 31 the particular family size and part of Indiana. If expenditure
- 32 reductions are part of the planned budget for the debtor, details of
- 33 the expected savings must be documented in the debtor's file and
- 34 set forth in the budget provided to the debtor.
- 35 (3) Documentation and verification, by a current credit bureau
- 36 report, current debtor account statements, or direct documentation
- 37 from the creditor, of monthly debt payments and balances to be
- 38 paid outside the plan.
- 39 (4) Documentation and verification, by a current credit bureau
- 40 report, current debtor account statements, or direct documentation
- 41 from the creditor, of the monthly debt payments and current
- 42 balances to be paid through the plan.



(5) The date of the budget analysis and the signature of the debtor.

(h) A licensee may not enter into an agreement with a ~~contract~~ debtor for a period longer than sixty (60) months.

(i) A licensee may provide services under this chapter in the same place of business in which another business is operating, or from which other products or services are sold, if the director issues a written determination that:

(1) the operation of the other business; or

(2) the sale of other products and services; from the location in question is not contrary to the best interests of ~~the licensee's contract~~ debtors.

(j) A licensee without a physical location in Indiana may:

(1) solicit sales of; and

(2) sell;

additional products and services to Indiana residents if the director issues a written determination that the proposed solicitation or sale is not contrary to the best interests of ~~contract~~ debtors.

(k) A licensee shall maintain a toll free communication system, staffed at a level that reasonably permits a contract debtor to speak to a counselor, debt specialist, or customer service representative, as appropriate, during ordinary business hours.

(l) A debt management company shall act in good faith in all matters under this chapter.

SECTION 29. IC 28-1-29-8.3, AS AMENDED BY P.L.216-2013, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8.3. (a) Except as otherwise permitted by this section, a licensee may not:

(1) impose, directly or indirectly, a fee or other charge on a debtor; or

(2) receive money from or on behalf of a debtor for debt management services.

(b) A licensee may not impose charges or receive payment for debt management services until:

(1) the licensee and the debtor have agreed upon a plan and have signed an agreement that complies with sections 8 and 9.5 of this chapter; and

(2) at least one (1) payment has been made to a creditor under the plan.

All creditors must be notified of the debtor's and licensee's relationship.

(c) If a debtor assents to a plan, the licensee may charge the following:

(1) A set up fee of not more than fifty dollars (\$50) for



consultation, obtaining a credit report, and setting up an account. Acceptance of a plan payment by a creditor constitutes agreement by the creditor to the plan. A set up fee under this subdivision may not be collected until the debtor, or the licensee on behalf of the debtor, has made at least one (1) payment to a creditor under the plan.

(2) Subject to subsection (d), a monthly service fee of the lesser of the following:

(A) Not more than fifteen percent (15%) of the amount the licensee receives from the contract debtor for payment to the contract debtor's creditors ~~for~~ **during** the applicable month. However, if the amount calculated under this clause is less than five dollars (\$5) for a particular month, the licensee may charge a monthly service fee of five dollars (\$5) for that month.

(B) Seventy-five dollars (\$75).

The monthly service fee under this subdivision may be charged for any one (1) month or part of a month. The amount of a set up fee under subdivision (1) may not be included in the calculation of the monthly service fee.

(d) Upon cancellation by a contract debtor or termination of payments by a contract debtor, a licensee may withhold for the licensee's own benefit not more than one hundred dollars (\$100), which may be accrued as a close-out fee.

(e) A licensee may not charge a contract debtor more than one (1) set up fee or one (1) close-out fee unless the contract debtor leaves the services of the licensee for more than six (6) months.

(f) With respect to any additional charge not specifically provided for in this section, the licensee must submit a written explanation of the charge to the department indicating how the charge would be assessed and the value or benefit conferred on the contract debtor in connection with the charge. Supporting documents may be required by the department. The department shall determine whether the charge:

(1) would be imposed in relation to some benefit conferred on the consumer; and

(2) is reasonable in relation to the benefit conferred.

An additional charge is not permitted unless approved by the department.

(g) For purposes of this chapter, the terms of an agreement commence on the date on which the agreement is made.

(h) A licensee may assess a charge of not more than twenty-five dollars (\$25) for each return by a bank or other depository institution



1 of a dishonored check, negotiable order of withdrawal, or share draft
2 issued by the contract debtor.

3 (i) Any fee charged by the licensee to the debtor under this section
4 for services rendered by the licensee, other than the fees described
5 under subsection (e), is not considered a debt owed by the debtor to the
6 licensee.

7 SECTION 30. IC 28-5-1-8, AS AMENDED BY P.L.158-2013,
8 SECTION 300, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Except as otherwise provided
10 in subsections (c), (d), and (e), the total obligation of any person, firm,
11 limited liability company, or corporation to any industrial loan and
12 investment company shall at no time exceed fifteen percent (15%) of
13 the amount of the capital and surplus of the company.

14 (b) The term "obligations" as used in this section means the direct
15 liability of the maker or acceptor of paper discounted with or sold to
16 any such company, and the liability of the indorser, drawer, or
17 guarantor who obtains a loan from, or discounts paper with or sells
18 paper under the person's guaranty to any such company, and, in the
19 case of obligations of a copartnership or association, includes only
20 those obligations of the several members thereof directly related to the
21 copartnership or association, and, in the case of obligations of a
22 corporation, includes all obligations of all subsidiaries thereof in which
23 such corporation owns or controls a majority interest.

24 (c) Subsection (a) does not apply to the following:

25 (1) Obligations arising out of the discount of commercial or
26 business paper actually owned by the person, firm, limited
27 liability company, or corporation negotiating such paper.

28 (2) Obligations of the United States or any instrumentality thereof
29 or of this state, or of any municipal corporation or taxing district
30 thereof, or obligations fully insured by the federal housing
31 administrator as to principal; however, the department may, under
32 such rules and regulations as it may prescribe, limit the total
33 amount that may be invested by any industrial loan and
34 investment company in any one (1) obligation or in any class of
35 obligations described in subdivisions (1) and (2).

36 (3) Obligations arising out of the agreement to repurchase, or the
37 guaranty or endorsement of, retail installment sales contracts by
38 a retail seller or subsequent assignee. However, this subdivision
39 does not apply in any case where such company purchasing such
40 paper does not become the absolute owner, or in any case where
41 installment payments are collected by a prior owner of the paper,
42 or by a retail seller of the goods represented thereby.



(4) Obligations arising out of the agreement to repurchase, or the guaranty or indorsement of, title-retaining real estate installment sales contracts by a seller, or subsequent assignees; however, this subdivision does not apply in any case where such company purchasing such contracts does not become the absolute owner, or in any case where installment payments are collected by a prior owner of the contracts or by a seller of such contracts.

(5) Obligations of the borrower arising out of loans in which the borrower has no personal liability but which are secured by bailment leases or the rentals due and to become due thereunder; and the rights of the lessor in said leases and the property being leased thereunder, and which loans are to be repaid out of said rentals due and to become due under said leases; or obligations arising out of the guaranty, endorsement, or assignment of bailment leases or the rentals due and to become due thereunder by the lessor. However, this subdivision does not apply in any such case where such company does not have the right or does not actually collect the rentals due or to become due thereunder.

(d) Obligations to an industrial loan and investment company of any subsidiary or subsidiaries of the company engaged in business for the purpose provided in section 6(a)(15) of this chapter shall at no time exceed in the case of one (1) subsidiary ten percent (10%) of the capital and surplus of the company or, in the case of more than one (1) subsidiary, in the aggregate twenty percent (20%) of the capital and surplus of the company unless in either case the department shall approve a larger percentage.

(e) Obligations to an industrial loan and investment company of any subsidiary or subsidiaries of the company engaged in business for the purpose provided in section 6(a)(14) of this chapter shall at no time exceed in the aggregate thirty percent (30%) of the amount of the capital and surplus of the company or such larger sum as the department may approve.

(f) Except as otherwise provided in this subsection and in section 9 of this chapter, no loan shall be made, directly or indirectly, by any industrial loan and investment company, to any active executive officer, agent, or employee thereof. The board of directors or executive committee of any industrial loan and investment company may, by resolution, duly entered in the records of the proceedings of the board or committee, authorize loans to or extend lines of credit to:

(1) any active executive officer, agent, or employee of such industrial loan and investment company in any amount not exceeding, at any one (1) time outstanding:



- 1 (A) ten thousand dollars (\$10,000); plus
2 (B) ten thousand dollars (\$10,000) which may be used for the
3 sole purpose of educating the children of such active executive
4 officer, agent, or employee as hereinafter provided; or
5 (2) directors not holding any office in such industrial loan and
6 investment company, and not acting as an agent or employee
7 thereof.

8 The board or committee may likewise authorize loans to or extend lines
9 of credit to firms, limited liability companies, or corporations in which
10 active executive officers, agents or employees or directors may be
11 partners, members, or stockholders, but the total amount of the
12 obligations of all such active executive officers, agents, or employees,
13 and directors, or other firms, limited liability companies, or
14 corporations in which such active executive officers, agents,
15 employees, and directors are partners, members, or stockholders, shall
16 not at any time exceed fifteen percent (15%) of the total resources of
17 the industrial loan and investment company at the time any such loan
18 or extension of credit is made. Loans and lines of credit permitted by
19 this subsection shall be made only on authorization by a majority of all
20 of the directors or members of the executive committee of such
21 industrial loan and investment company, and by the affirmative vote of
22 all directors or members of the executive committee present at the
23 meeting, and such authorization may be general and need not be given
24 for each loan or line of credit extended. However, such general
25 authorization shall be voted upon at least annually. When a line of
26 credit has been extended pursuant to this subsection to any such active
27 executive officer, agent, or employee or to any such director, or to any
28 firm, corporation, limited liability company, or partnership in which an
29 active executive officer, agent, employee, or director may be a partner,
30 member, or stockholder, any notes or other instruments evidencing an
31 indebtedness to the industrial loan and investment company, and any
32 renewals or extensions thereof, need not be authorized as otherwise
33 required by this subsection if such loan, or any renewal or any
34 extension thereof, is within the terms of the authorization of the line of
35 credit theretofore extended by the directors or executive committee to
36 such active executive officer, agent, or employee, or to such director,
37 or to any firm, corporation, limited liability company, or partnership in
38 which any active executive officer, agent, employee, or director may be
39 a partner, member or stockholder. The department, under such general
40 rules and regulations as it may prescribe, which shall apply to all
41 industrial loan and investment companies alike, may require full
42 collateral security for all loans of the types permitted by this subsection



and, for the purpose of providing that such security may be adequate, may specify the types thereof that may be pledged. Subject to section 9 of this chapter, the limitations of this subsection shall not apply to a loan by an industrial loan and investment company to an active executive officer, agent, or employee thereof made upon the security of real estate whereupon such active executive officer, agent, or employee maintains the person's actual residence. The term "actual residence" includes a two (2) family dwelling unit if one (1) of such units is occupied by the active executive officer, agent, or employee of the industrial loan and investment company.

(g) An officer or director of any industrial loan and investment company who knowingly violates subsection (f) commits a Level 4 felony.

(h) For purposes of any lending limits set forth in this section with respect to an industrial loan and investment company, the total loans and extensions of credit by an industrial loan and investment company includes any credit exposure to a person arising from a derivative transaction (as defined in 12 U.S.C. 84(b)(3)) between the industrial loan and investment company and the person.

SECTION 31. IC 28-7-1-17, AS AMENDED BY P.L.27-2012, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 17. (a) Every loan application shall be submitted on a form approved by the board of directors. ~~When making an application, a member shall state the security offered.~~ Loans may be dispersed upon written approval by a majority of the credit committee or a loan officer. If the credit committee or loan officer fails to approve an application for a loan, the applicant may appeal to the board of directors, ~~providing if~~ such appeal is authorized by the bylaws.

(b) Loans to members may be made only under the following terms and conditions:

(1) All loans shall be evidenced by notes signed by the borrowing member.

(2) Except as otherwise provided in this section, the terms of any loan to a member with a maturity of more than six (6) months shall provide for principal and interest payments that will amortize the obligation in full within the terms of the loan contract. If the income of the borrowing member is seasonal, the terms of the loan contract may provide for seasonal amortization.

(3) Loans may be made upon the security of improved or unimproved real estate. Except as otherwise specified in this section, such loans must be secured by a first lien upon real estate



prior to all other liens, except for taxes and assessments not delinquent, and may be made with repayment terms other than as provided in subdivision (2). The credit union loan folder for all real estate mortgage loans shall include the following:

- (A) The loan application.
- (B) The mortgage instrument.
- (C) The note.
- (D) The disclosure statement.
- (E) The documentation of property insurance.
- (F) For the real estate for which the loan is made, a written appraisal, which must be performed by a state licensed or certified appraiser designated by the board of directors if the amount of the loan is at least two hundred fifty thousand dollars (\$250,000).

~~(G) The attorney's opinion of titles or a certificate of title insurance on the real estate upon which the mortgage loan is made.~~

(4) Loans made upon security of real estate are subject to the following restrictions:

- (A) Real estate loans in which no principal amortization is required shall provide for the payment of interest at least annually and shall mature within five (5) years of the date of the loan unless extended and shall not exceed fifty percent (50%) of the fair cash value of the real estate used as security.
- (B) Real estate loans on improved real estate, except for variable rate mortgage loans and rollover mortgage loans provided for in subdivision (5), shall require substantially equal payments at successive intervals of not more than one (1) year, shall mature within thirty (30) years, and shall not exceed one hundred percent (100%) of the fair cash value of the real estate used as security.
- (C) Real estate loans on unimproved real estate may be made. The terms of the loan shall:
 - (i) require substantially equal payments of interest and principal at successive intervals of one (1) year or less;
 - (ii) mature within ten (10) years; and
 - (iii) not exceed eighty-five percent (85%) of the fair cash value of the real estate used as security.
- (D) Loans primarily secured by a mortgage which constitutes a second lien on improved real estate may be made only if the aggregate amount of all loans on the real estate does not exceed one hundred percent (100%) of the fair cash value of



- 1 the real estate after such loan is made. Repayment terms shall
 2 be in accordance with subdivision (2).
 3 (E) Real estate loans may be made for the construction of
 4 improvements to real property. Funds borrowed may be
 5 advanced as work on the improvements progresses.
 6 Repayment terms must comply with subdivision (2).
 7 (5) Subject to the limitations of subdivision (3), variable rate
 8 mortgage loans and rollover mortgage loans may be made under
 9 the same limitations and rights provided state chartered savings
 10 associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or
 11 federal credit unions.
 12 (6) As used in this subdivision, "originating lender" means the
 13 participating lender with which the member contracts. A credit
 14 union may participate with other state and federal depository
 15 financial institutions (as defined in IC 28-1-1-6) or credit union
 16 service organizations in making loans to credit union members
 17 and may sell a participating interest in any of its loans under
 18 written participation loan policies established by the board of
 19 directors. However, the credit union may not sell more than ninety
 20 percent (90%) of the principal of participating loans outstanding
 21 at the time of sale. A participating credit union that is not the
 22 originating lender may participate only in loans made to the credit
 23 union's own members or to members of another participating state
 24 or federal credit union. A master participation agreement must be
 25 properly executed. The agreement must include provisions for
 26 identifying, either through documents incorporated by reference
 27 or directly in the agreement, the participation loan or loans before
 28 the sale of the loans.
 29 (7) Notwithstanding subdivisions (1) through (6), a credit union
 30 may make any of the following:
 31 (A) Any loan that may be made by a federal credit union.
 32 However, IC 24-4.5 applies to any loan that is:
 33 (i) made under this clause; and
 34 (ii) within the scope of IC 24-4.5.
 35 Any provision of federal law that is in conflict with IC 24-4.5
 36 does not apply to a loan made under this clause.
 37 (B) Subject to subdivision (3), any alternative mortgage loan
 38 (as defined in IC 28-15-11-2) that may be made by a savings
 39 association (as defined in IC 28-15-1-11) under IC 28-15-11.
 40 A loan made under this clause by a credit union is subject to
 41 the same terms, conditions, exceptions, and limitations that
 42 apply to an alternative mortgage loan made by a savings



- 1 association under IC 28-15-11.
- 2 (8) A credit union may make a loan under either:
- 3 (A) subdivisions (2) through (6); or
- 4 (B) subdivision (7);
- 5 but not both. A credit union shall make an initial determination as
- 6 to whether to make a loan under subdivisions (2) through (6) or
- 7 under subdivision (7). If the credit union determines that a loan or
- 8 category of loans is to be made under subdivision (7), the written
- 9 loan policies of the credit union must include that determination.
- 10 A credit union may not combine the terms and conditions that
- 11 apply to a loan made under subdivisions (2) through (6) with the
- 12 terms and conditions that apply to a loan made under subdivision
- 13 (7) to make a loan not expressly described and authorized either
- 14 under subdivisions (2) through (6) or under subdivision (7).
- 15 (c) Nothing in this section prevents any credit union from taking an
- 16 indemnifying or second mortgage on real estate as additional security.
- 17 SECTION 32. IC 28-7-1-18, AS AMENDED BY P.L.137-2014,
- 18 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 19 JULY 1, 2015]: Sec. 18. (a) The supervisory committee shall cause the
- 20 share and loan accounts of the members to be verified with the records
- 21 of the treasurer at least each biennium. **A verification under this**
- 22 **subsection shall be performed using one (1) of the following**
- 23 **methods:**
- 24 **(1) A verification of one hundred percent (100%) of the share**
- 25 **and loan accounts of all members.**
- 26 **(2) A verification of share and loan accounts in accordance**
- 27 **with the requirements of the National Credit Union**
- 28 **Administration set forth in 12 CFR 715.8.**
- 29 (b) The supervisory committee shall supervise the acts of the board
- 30 of directors, credit committee, and officers.
- 31 (c) By a majority vote, the supervisory committee may call a
- 32 meeting of the shareholders to consider any violation of this chapter,
- 33 or of the bylaws, or any practice of the credit union which, in the
- 34 opinion of the committee is unsafe and unauthorized.
- 35 (d) The supervisory committee shall fill vacancies in its own
- 36 number until the next annual meeting of the members.
- 37 (e) At the close of the audit period, the supervisory committee shall
- 38 make or cause to be made a thorough audit of the credit union for each
- 39 audit period and shall make a full report to the directors. The audit
- 40 report shall be issued not later than one hundred twenty (120) days
- 41 following the close of the audit period. Tapes, work papers, schedules,
- 42 and evidence of verification of accounts shall be retained until the next



1 examination by the department. A summary of the report shall be read
2 at the annual meeting and shall be filed and preserved with the records
3 of the credit union.

4 (f) A credit union with assets of at least five million dollars
5 (\$5,000,000) shall have an annual audit performed by an outside
6 professional accounting firm. The department may require a
7 professional outside audit to be performed upon any credit union if the
8 department questions the safety and soundness of the credit union.

9 (g) Minutes of every meeting of the supervisory committee shall be
10 kept and maintained.

11 SECTION 33. IC 28-7-1-24, AS AMENDED BY P.L.35-2010,
12 SECTION 163, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2015]: Sec. 24. (a) All entrance charges shall,
14 after payment of the organization expenses, be known as reserve
15 income, and shall be added to the regular reserve of the credit union.
16 At the close of the dividend period, there shall be set apart to the
17 regular reserve ten percent (10%) of gross income until the regular
18 reserve shall equal seven and one-half percent (7 1/2%) of the total of
19 outstanding loans, then five percent (5%) of gross income until the
20 regular reserve shall equal ten percent (10%) of the total of outstanding
21 loans. Whenever the regular reserve falls below ten percent (10%) or
22 seven and one-half percent (7 1/2%) of the total of outstanding loans,
23 it shall be replenished by regular contributions to maintain the reserve
24 goals of seven and one-half percent (7 1/2%) or ten percent (10%). The
25 regular reserve shall be held to meet contingencies and shall not be
26 distributed to the members except upon dissolution of the credit union.

27 (b) A credit union may have an undivided profits account. The
28 undivided profits account may be transferred to the regular reserve.

29 (c) The department may, by rule, revise the formula prescribed by
30 this section. A revised formula must be prudent and must reasonably
31 be expected to protect the credit unions.

32 (d) Financial statements of credit unions must provide for full and
33 fair disclosure of all assets, liabilities, and members' equity, including
34 such allowance for loan loss accounts necessary to present fairly the
35 financial position, and all income and expenses necessary to present
36 fairly the results of operation for the period concerned.

37 (e) The maintenance of an allowance for loan losses and investment
38 or other losses does not exempt a credit union from the requirement set
39 forth in subsection (a) or regulation CU-2. The totals of the regular
40 reserve, the allowance for loan losses account, and the allowance for
41 investment losses shall be combined for determining the percentage of
42 gross income to be transferred to the regular reserve.



(f) Loan losses of a credit union must be charged against the allowance for loan loss. Adjustments to the allowance for loan losses shall be made before the distribution of any dividend so that the allowance for loan loss represents the value of loans and anticipated losses resulting from:

- (1) uncollectible loans, notes, and contracts receivable, including any uncollectible accrued interest receivable thereon;
- (2) assets acquired in liquidation of loans; and
- (3) loans purchased from other credit unions.

(g) Adjustments to the allowance for loan losses must be recorded in the expense account "provision for loan losses".

(h) If the balance of the allowance for loan losses is considered to be in excess of the amount needed to meet the full and fair disclosure requirements, the excess amount must be transferred to the regular reserve account or deducted from the provision for loan loss expense account.

SECTION 34. IC 28-7-1-24.1 IS REPEALED [EFFECTIVE JULY 1, 2015]. See: 24.1. (a) Notwithstanding section 24(a) of this chapter as it applies to the regular reserve formula; a credit union that:

- (1) has only share accounts that are insured by an agency of the federal government, the state, or an insuring entity that is approved by the department to insure credit union shares;
- (2) has assets of five hundred thousand dollars (\$500,000) or more; and
- (3) has been in operation for more than four (4) years;

may maintain reserves in accordance with this section.

(b) For purposes of this section, "risk assets" means all assets except the following:

- (1) Cash on hand.
- (2) Deposits or shares in federally or state insured banks, savings and loan associations, and credit unions.
- (3) Investments that are direct or indirect obligations of the United States government or its agencies.
- (4) Loans to other credit unions.
- (5) Student loans insured under the Higher Education Act (20 U.S.C. 1071 et seq.) or similar state insurance programs.
- (6) Loans insured under the National Housing Act (12 U.S.C. 1703) by the Federal Housing Authority.
- (7) Credit union mutual funds authorized by the Indiana Credit Union Act under IC 28-7-1-9(3)(f).
- (8) Prepaid expenses.
- (9) Accrued interest on nonrisk investments.



(10) Furniture and equipment.

(11) Land and buildings.

(12) Loans fully secured by a pledge of shares in the lending credit union; equal to and maintained to at least the amount of loan outstanding.

(13) Loans that are purchased from liquidating credit unions and guaranteed by an insuring agency of the federal government; the state; or an agency approved by the department to insure credit union share accounts.

(c) At the end of each accounting period; the gross income shall be determined. Based on the amount of gross income; ten percent (10%) of the gross income shall be set aside; as a regular reserve; until the reserve shall equal four percent (4%) of total risk assets; and then five percent (5%) of the gross income shall be set aside; until the reserve equals six percent (6%) of total risk assets.

(d) Except for the method of calculating the regular reserve formula; all other provisions of section 24 of this chapter pertaining to entrance fees and charges; requirements of a special reserve for delinquent loans; and waiver of such special reserve; apply to credit unions that have reserves that are calculated under this section.

SECTION 35. IC 28-7-1-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 29. Any credit union organized or reorganized under the laws of Indiana or the United States may convert from a state charter to a federal charter or from a federal charter to a state charter as follows:

(1) A federally chartered credit union may apply for a state charter by observing the following procedures:

(A) The board of directors shall pass a resolution that the federal charter be canceled when and if a state charter is applied for and issued to the credit union by the department of financial institutions.

(B) Written notice of the resolution shall be sent to each member at least thirty (30) days prior to the meeting in which the resolution is to be submitted to the members.

(C) An affirmative majority vote of the members present at the meeting shall be required to effect the conversion from federal to state charter, provided a quorum is present at the meeting.

(D) Certified copies of the minutes of the proceedings of the meeting of the members shall be filed with both the National Credit Union Administration and the department.

(E) ~~Within thirty (30)~~ **Not later than seventy-five (75)** days after receiving the certified copies of the minutes, an



1 examination of the financial condition of the credit union shall
 2 be made by the department. The cost of the examination shall
 3 be paid by the credit union.

4 (F) Within thirty (30) days after the completion of the
 5 examination, the department shall report to the credit union the
 6 results of its examination and supply the National Credit
 7 Union Administration with a copy of the examination report.

8 (G) If it receives a satisfactory report of the examination, the
 9 credit union must within thirty (30) days file its amended
 10 articles of incorporation and amended bylaws pursuant to this
 11 chapter with the secretary of state, and copies of the amended
 12 articles and amended bylaws must be directed to the
 13 department and the National Credit Union Administration.

14 (H) Officers, directors, and committee members shall retain
 15 their respective offices for the unexpired terms existing prior
 16 to the conversion, subject to the provisions of this chapter.

17 (I) The newly chartered credit union shall have all of the rights
 18 and privileges in and to all of the assets of the prior existing
 19 credit union and shall assume and be responsible for all of the
 20 obligations imposed while operating under the federal charter.

21 (2) A state chartered credit union may be converted into a
 22 federally chartered credit union by complying with the following
 23 requirements:

24 (A) The board must adopt and approve by a majority of the
 25 directors a resolution of conversion. The proposition for such
 26 conversion shall first be approved by a majority of the
 27 directors of the state credit union.

28 (B) The board must notify the membership either in person or
 29 by mail of the membership meeting at which the resolution of
 30 conversion will be acted upon. The notice must be mailed not
 31 more than thirty (30) and not less than seven (7) days before
 32 the meeting.

33 (C) The resolution must be approved by a majority of those
 34 voting, either in person or by absentee ballot, at the
 35 membership meeting called by the board.

36 (D) The results of the vote, verified by the affidavits of the
 37 chairperson or vice chairperson and the secretary, shall be
 38 filed with the department within ten (10) days after the vote is
 39 taken.

40 (E) If the proposition for conversion is approved, the credit
 41 union shall within ninety (90) days take the action necessary
 42 to make it a federal credit union. Within ten (10) days after



1 receipt of the federal charter, the credit union shall file with
 2 the department a copy of the charter. Upon such filing, and
 3 after the credit union has notified the office of the secretary of
 4 state that the conversion is concluded, the credit union shall
 5 cease to be a state credit union.

6 SECTION 36. IC 28-7-5-9, AS AMENDED BY P.L.89-2011,
 7 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2015]: Sec. 9. **(a) As used in this section, "branch location"**
 9 **means a location that:**

- 10 **(1) is maintained by a person licensed or required to be**
 11 **licensed under this chapter;**
 12 **(2) is located somewhere other than the person's main office**
 13 **location; and**
 14 **(3) does not constitute a separate legal entity from, or a**
 15 **subsidiary of, the person.**

16 **(b)** Except in a transaction approved under section 9.1 of this
 17 chapter, a license ~~shall~~ **is not be** transferable or assignable. ~~More than~~
 18 **Subject to section 10 of this chapter,** one (1) ~~place of business or~~
 19 **more branch locations** may be maintained under the same license.

20 SECTION 37. IC 28-7-5-13, AS AMENDED BY P.L.27-2012,
 21 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2015]: Sec. 13. (a) The department may issue to a licensee an
 23 order to show cause why the licensee's license should not be revoked
 24 or suspended for a period determined by the department.

25 (b) An order issued under subsection (a) must:

26 (1) include:

- 27 (A) a statement of the place, date, and time for a meeting with
 28 the department, which date may not be less than ten (10) days
 29 from the date of the order;
 30 (B) a description of the action contemplated by the
 31 department; and
 32 (C) a statement of the facts or conduct supporting the issuance
 33 of the order; and

34 (2) be accompanied by a notice stating that the licensee is entitled
 35 to:

- 36 (A) a reasonable opportunity to be heard; and
 37 (B) show the licensee's compliance with all lawful
 38 requirements for retention of the license;

39 at the meeting described in subdivision (1)(A).

40 (c) After the meeting described in subsection (b)(1)(A), the
 41 department may revoke or suspend the license if the department finds
 42 that:



- (1) the licensee has repeatedly and willfully violated:
 - (A) this chapter or any **applicable** rule, order, or guidance document adopted or issued by the department; or
 - (B) any other state or federal law, regulation, or rule applicable to the business of a pawnbroker;
- (2) the licensee does not meet the licensing qualifications set forth in this chapter;
- (3) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;
- (4) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the department; or
- (5) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(d) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:

- (1) the revocation or suspension;
- (2) if a suspension has been ordered, the duration of the suspension;
- (3) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- (4) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(e) Any person holding a license to operate as a pawnbroker may surrender the license by complying with section 10.1 of this chapter. However, a surrender of a license under section 10.1 of this chapter does not affect the person's liability for acts previously committed and coming within the scope of this chapter.

(f) If the director determines it to be in the public interest, the director may pursue the revocation of a license of a licensee that has surrendered the license under section 10.1 of this chapter.

(g) If a person's license is revoked, suspended, or surrendered, the revocation, suspension, or surrender does not impair or affect any obligation owed by any person under any existing contract, pledge, or pawn ticket.

(h) If the director of the department has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license



1 through an emergency or another temporary order under IC 4-21.5-4.

2 SECTION 38. IC 28-7-5-16, AS AMENDED BY P.L.137-2014,
 3 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2015]: Sec. 16. (a) The licensee shall keep and use in the
 5 licensee's business such books, accounts, and records as will enable the
 6 department to determine whether the licensee is complying with this
 7 chapter and with the rules adopted by the department under this
 8 chapter. Every licensee shall preserve such books, accounts, and
 9 records, including cards used in the card system for at least two (2)
 10 years after making the final entry on any loan recorded therein. The
 11 books and records of the licensee shall be kept so that the pawnbroking
 12 business transacted in Indiana may be readily separated and
 13 distinguished from the business of the licensee transacted elsewhere
 14 and from any other business in which the licensee may be engaged. To
 15 determine whether the licensee is complying with this chapter and with
 16 rules adopted by the department under this chapter, the department may
 17 examine the books, accounts, and records required to be kept by the
 18 licensee under this subsection. If the department examines the books,
 19 accounts, and records of the licensee under this subsection, the licensee
 20 shall pay all reasonably incurred costs of the examination in
 21 accordance with the fee schedule adopted under IC 28-11-3-5. A fee
 22 established by the department under IC 28-11-3-5 may be charged for
 23 each day a fee under this subsection is delinquent. **Any costs required**
 24 **to be paid under this section shall be paid not later than sixty (60)**
 25 **days after the person receives a notice from the department of the**
 26 **costs being assessed. The department may impose a fee, in an**
 27 **amount fixed by the department under IC 28-11-3-5, for each day**
 28 **that the assessed costs are not paid, beginning on the first day after**
 29 **the sixty (60) day period described in this subsection.**

30 (b) If a pawnbroker, in the conduct of the business, purchases an
 31 article from a seller, the purchase shall be evidenced by a bill of sale
 32 properly signed by the seller. All bills of sale must be in duplicate and
 33 must recite the following separate items:

- 34 (1) Date of bill of sale.
- 35 (2) Amount of consideration.
- 36 (3) Name of pawnbroker.
- 37 (4) Description of each article sold. However, if multiple articles
- 38 of a similar nature that do not contain an identification or serial
- 39 number (such as precious metals, gemstones, musical recordings,
- 40 video recordings, books, or hand tools) are delivered together in
- 41 one (1) transaction, the description of the articles is adequate if
- 42 the description contains the quantity of the articles delivered and



a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

(5) Signature of seller.

(6) Address of seller.

(7) Date of birth of the seller.

(8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(c) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(d) If a pawnbroker, in the conduct of the business, purchases precious metal (as defined in IC 24-4-19-6) from a seller, the pawnbroker shall, for at least ten (10) calendar days after the date the pawnbroker purchases the precious metal, retain the precious metal:

(1) at the pawnbroker's permanent place of business where the

pawnbroker purchased the precious metal; and

(2) separate from other precious metal.

(e) Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables.

(f) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 39. IC 28-8-4-38, AS AMENDED BY P.L.137-2014, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 38. ~~(a)~~ A licensee may renew a license by complying with the following:



(1) Filing with the director or the director's designee the annual renewal in the form that is prescribed by the director and sent by the director to each licensee not later than December 31 of each year. The renewal must include the following, which, except for the financial statements described in clause (A), must be filed not later than December 31:

(A) Either:

(i) a copy of the licensee's most recent audited consolidated annual financial statements, including a balance sheet, a statement of income or loss, a statement of changes in ~~shareholder's~~ **shareholder** equity, and a statement of changes in financial position; or

(ii) if the licensee is a wholly owned subsidiary, the parent corporation's or parent organization's most recent consolidated audited annual financial statements or the parent corporation's or parent organization's most recent Form 10K report filed with the Securities and Exchange Commission, along with the licensee's unaudited annual financial statements.

The audited financial statements required to be submitted under this clause must be prepared by an independent certified public accountant authorized to do business in the United States in accordance with AICPA Statements on Standards for Accounting and Review Services (SSARS) and must be filed with the director or the director's designee not later than one hundred twenty (120) days after the close of the calendar or fiscal year covered by the statements.

(B) The number of payment instruments sold by the licensee in Indiana, the dollar amount of those instruments, and the dollar amount of outstanding payment instruments sold by the licensee calculated from the most recent quarter for which data is available before the date of the filing of the renewal application, but in no event more than one hundred twenty (120) days before the renewal date.

(C) Material changes to the information submitted by the licensee on its original application or as part of a renewal that have not been reported previously to the director on any other report or renewal required to be filed under this chapter.

(D) A list of the licensee's permissible investments.

(E) A list of the locations within Indiana at which business regulated by this chapter will be conducted by either the licensee or its authorized delegate, including information



1 concerning any business, other than the business of money
 2 transmission under this chapter, that will be conducted at each
 3 identified location, as required under section 24(10) of this
 4 chapter.
 5 (2) Paying the annual renewal fee described under section 37 of
 6 this chapter.
 7 (b) A licensee that:
 8 (1) does not:
 9 (A) file:
 10 (i) a renewal; or
 11 (ii) any financial statements required by subsection
 12 (a)(1)(A);
 13 by the renewal filing deadline set by the director; or
 14 (B) pay the renewal fee by December 31 of each year; and
 15 (2) has not been granted an extension of time by the department
 16 to meet the requirements described in subdivision (1);
 17 shall be notified by the department, in writing, that a hearing will be
 18 scheduled at which the licensee will be required to show cause why its
 19 license should not be suspended pending compliance with these
 20 requirements. If after the hearing the license is not suspended, the
 21 department shall require a daily late fee beginning with the date the
 22 renewal, the financial statements, or the annual renewal fee is required
 23 by this chapter, in an amount fixed by the department under
 24 IC 28-11-3-5.
 25 (c) The director may, for good cause shown, waive any requirement
 26 of this section.
 27 SECTION 40. IC 28-8-4-41, AS AMENDED BY P.L.137-2014,
 28 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2015]: Sec. 41. (a) The director may conduct an annual onsite
 30 examination of a licensee or an authorized delegate of a licensee.
 31 (b) If the director determines that a reasonable belief exists that a
 32 person is operating without a valid license or in violation of this
 33 chapter, the director has the authority to investigate and examine the
 34 records of that person. The person examined must pay the reasonably
 35 incurred costs of the examination.
 36 (c) Except as provided in section 42(a)(2) of this chapter, the
 37 director must give the licensee forty-five (45) days written notice
 38 before conducting an onsite examination.
 39 (d) If the director determines, based on the licensee's financial
 40 statements and past history of operations in Indiana, that an onsite
 41 examination is unnecessary, the director may waive the onsite
 42 examination.



(e) If the director concludes that an onsite examination of a licensee is necessary, the licensee shall pay all reasonably incurred costs of such examination in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this section is delinquent. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.**

(f) An onsite examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states. In lieu of an onsite examination, a director may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm. A report accepted under this subsection shall be considered, for all purposes, to be an official report of the director.

(g) To discover violations of this chapter or to secure information necessary for the enforcement of this chapter, the department may investigate any:

- (1) licensee; or
- (2) person that the department suspects to be operating:
 - (A) without a license, when a license is required under this chapter; or
 - (B) otherwise in violation of this chapter.

The department has all investigatory and enforcement authority under this chapter that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the licensee or other person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.**

(h) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the



1 person that provides the service to the licensee shall, at the request of
 2 the director, submit to an examination by the department. If the director
 3 determines that an examination under this subsection is necessary or
 4 desirable, the examination may be made at the expense of the person
 5 to be examined. If the person to be examined under this subsection
 6 refuses to permit the examination to be made, the director may order
 7 any licensee that receives services from the person refusing the
 8 examination to:

9 (1) discontinue receiving one (1) or more services from the
 10 person; or

11 (2) otherwise cease conducting business with the person.

12 SECTION 41. IC 28-8-4-48, AS AMENDED BY P.L.27-2012,
 13 SECTION 101, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2015]: Sec. 48. (a) The director may issue to a
 15 licensee an order to show cause why the licensee's license should not
 16 be revoked or suspended for a period determined by the department.

17 (b) An order issued under subsection (a) must:

18 (1) include:

19 (A) a statement of the place, date, and time for a meeting with
 20 the department, which date may not be less than ten (10) days
 21 from the date of the order;

22 (B) a description of the action contemplated by the
 23 department; and

24 (C) a statement of the facts or conduct supporting the issuance
 25 of the order; and

26 (2) be accompanied by a notice stating that the licensee is entitled
 27 to:

28 (A) a reasonable opportunity to be heard; and

29 (B) show the licensee's compliance with all lawful
 30 requirements for retention of the license;

31 at the meeting described in subdivision (1)(A).

32 (c) After the meeting described in subsection (b)(1)(A), the
 33 department may revoke or suspend the license if the department finds
 34 that:

35 (1) the licensee has repeatedly and willfully violated:

36 (A) this chapter or any **applicable** rule, order, or guidance
 37 document adopted or issued by the department; or

38 (B) any other state or federal law, regulation, or rule applicable
 39 to the business of money transmission;

40 (2) the licensee does not meet the licensing qualifications set forth
 41 in this chapter;

42 (3) the licensee obtained the license for the benefit of, or on



1 behalf of, a person who does not qualify for the license;

2 (4) the licensee knowingly or intentionally made material
3 misrepresentations to, or concealed material information from, the
4 department; or

5 (5) facts or conditions exist that, had they existed at the time the
6 licensee applied for the license, would have been grounds for the
7 department to deny the issuance of the license.

8 (d) Whenever the department revokes or suspends a license, the
9 department shall enter an order to that effect and notify the licensee of:

10 (1) the revocation or suspension;

11 (2) if a suspension has been ordered, the duration of the
12 suspension;

13 (3) the procedure for appealing the revocation or suspension
14 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and

15 (4) any other terms and conditions that apply to the revocation or
16 suspension.

17 Not later than five (5) days after the entry of the order, the department
18 shall deliver to the licensee a copy of the order and the findings
19 supporting the order.

20 (e) Any person holding a license to engage in the business of money
21 transmission may relinquish the license by notifying the department in
22 writing of the relinquishment. However, a relinquishment under this
23 subsection does not affect the person's liability for acts previously
24 committed and coming within the scope of this chapter.

25 (f) If the director determines it to be in the public interest, the
26 director may pursue the revocation of a license of a licensee that has
27 relinquished the license under subsection (e).

28 (g) If a person's license is revoked, suspended, or relinquished, the
29 revocation, suspension, or relinquishment does not impair or affect any
30 obligation owed by any person under any existing lawful contract.

31 (h) If the director of the department has just cause to believe an
32 emergency exists from which it is necessary to protect the interests of
33 the public, the director may proceed with the revocation of a license
34 through an emergency or another temporary order under IC 4-21.5-4.

35 SECTION 42. IC 28-8-5-18.4, AS AMENDED BY P.L.35-2010,
36 SECTION 188, IS AMENDED TO READ AS FOLLOWS
37 [EFFECTIVE JULY 1, 2015]: Sec. 18.4. (a) This section applies if,
38 after a person has been issued a license or renewal license under this
39 chapter, the licensee, or any individual described in section 11(b)(2) of
40 this chapter, has been convicted of or pleaded guilty ~~or not to contendere~~
41 to a felony under the laws of Indiana or any other jurisdiction.

42 (b) If this section applies, the licensee shall provide to the



1 department the information required under section 11(b)(2)(D) of this
2 chapter:

- 3 (1) not later than thirty (30) days after the licensee or individual
4 described in section 11(b)(2) of this chapter has been convicted
5 of or pleaded guilty ~~or not to contend~~ to the felony; or
6 (2) if the licensee's next license renewal fee under section 15 of
7 this chapter is due before the date described in subdivision (1),
8 along with the licensee's next license renewal fee under section 15
9 of this chapter.

10 SECTION 43. IC 28-8-5-19, AS AMENDED BY THE
11 TECHNICAL CORRECTIONS BILL OF THE 2015 GENERAL
12 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2015]: Sec. 19. (a) The department may examine the books,
14 accounts, and records of a licensee and may make investigations to
15 determine compliance.

16 (b) If the department examines the books, accounts, and records of
17 a licensee, the licensee shall pay all reasonably incurred costs of the
18 examination in accordance with the fee schedule adopted under
19 IC 28-11-3-5. A fee established by the department under IC 28-11-3-5
20 may be charged for each day a fee under this section is delinquent. **Any**
21 **costs required to be paid under this section shall be paid not later**
22 **than sixty (60) days after the person receives a notice from the**
23 **department of the costs being assessed. The department may**
24 **impose a fee, in an amount fixed by the department under**
25 **IC 28-11-3-5, for each day that the assessed costs are not paid,**
26 **beginning on the first day after the sixty (60) day period described**
27 **in this subsection.**

28 (c) To discover violations of this chapter or to secure information
29 necessary for the enforcement of this chapter, the department may
30 investigate any:

- 31 (1) licensee; or
32 (2) person that the department suspects to be operating:
33 (A) without a license, when a license is required under this
34 chapter; or
35 (B) otherwise in violation of **this** chapter.

36 The department has all investigatory and enforcement authority under
37 this chapter that the department has under IC 28-11 with respect to
38 financial institutions. If the department conducts an investigation under
39 this section, the licensee or other person investigated shall pay all
40 reasonably incurred costs of the investigation in accordance with the
41 fee schedule adopted under IC 28-11-3-5. **Any costs required to be**
42 **paid under this section shall be paid not later than sixty (60) days**



1 after the person receives a notice from the department of the costs
 2 being assessed. The department may impose a fee, in an amount
 3 fixed by the department under IC 28-11-3-5, for each day that the
 4 assessed costs are not paid, beginning on the first day after the
 5 sixty (60) day period described in this subsection.

6 (d) If a licensee contracts with an outside vendor to provide a
 7 service that would otherwise be undertaken internally by the licensee
 8 and be subject to the department's routine examination procedures, the
 9 person that provides the service to the licensee shall, at the request of
 10 the director, submit to an examination by the department. If the director
 11 determines that an examination under this subsection is necessary or
 12 desirable, the examination may be made at the expense of the person
 13 to be examined. If the person to be examined under this subsection
 14 refuses to permit the examination to be made, the director may order
 15 any licensee that receives services from the person refusing the
 16 examination to:

17 (1) discontinue receiving one (1) or more services from the
 18 person; or

19 (2) otherwise cease conducting business with the person.

20 SECTION 44. IC 28-8-5-22, AS AMENDED BY P.L.27-2012,
 21 SECTION 105, IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The department may issue
 23 to a licensee an order to show cause why the licensee's license should
 24 not be revoked or suspended for a period determined by the
 25 department.

26 (b) An order issued under subsection (a) must:

27 (1) include:

28 (A) a statement of the place, date, and time for a meeting with
 29 the department, which date may not be less than ten (10) days
 30 from the date of the order;

31 (B) a description of the action contemplated by the
 32 department; and

33 (C) a statement of the facts or conduct supporting the issuance
 34 of the order; and

35 (2) be accompanied by a notice stating that the licensee is entitled
 36 to:

37 (A) a reasonable opportunity to be heard; and

38 (B) show the licensee's compliance with all lawful
 39 requirements for retention of the license;

40 at the meeting described in subdivision (1)(A).

41 (c) After the meeting described in subsection (b)(1)(A), the
 42 department may revoke or suspend the license if the department finds



that:

- (1) the licensee has repeatedly and willfully violated:
 - (A) this chapter or any **applicable** rule, order, or guidance document adopted or issued by the department; or
 - (B) any other state or federal law, regulation, or rule applicable to the business of cashing checks for consideration;
 - (2) the licensee does not meet the licensing qualifications set forth in this chapter;
 - (3) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;
 - (4) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the department; or
 - (5) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.
- (d) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:
- (1) the revocation or suspension;
 - (2) if a suspension has been ordered, the duration of the suspension;
 - (3) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
 - (4) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(e) Any person holding a license to engage in the business of cashing checks for consideration may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this chapter.

(f) If the director determines it to be in the public interest, the director may pursue the revocation of a license of a licensee that has relinquished the license under subsection (e).

(g) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any existing lawful contract.

(h) If the director of the department has just cause to believe an emergency exists from which it is necessary to protect the interests of



1 the public, the director may proceed with the revocation of a license
2 through an emergency or another temporary order under IC 4-21.5-4.
3 SECTION 45. IC 28-10-1-1, AS AMENDED BY P.L.137-2014,
4 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2015]: Sec. 1. A reference to a federal law or federal
6 regulation in this title is a reference to the law or regulation as in effect
7 December 31, ~~2013~~ **2014**.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1287, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 24, line 34, delete "A" and insert **"Subject to subsection (7), a"**.

Page 25, between lines 37 and 38, begin a new paragraph and insert:

"(7) Notwithstanding IC 24-4.5-1-301.5(39), for purposes of subsection (2), a person "regularly engages" in any of the activities described in subsection (2) with respect to a small loan if the person:

(a) performed any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year; or

(b) performs or will perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the current calendar year if the person did not perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year."

Page 26, line 39, delete "coerce" and insert **"compel"**.

Page 29, delete lines 13 through 22.

Page 51, line 39, after "(30)" insert **"Not later than seventy-five (75)"**.

Page 51, line 39, reset in roman "days after receiving the certified copies".

Page 51, line 40, reset in roman "of the minutes,".

Page 51, line 40, delete "An" and insert "an".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1287 as introduced.)

BURTON

Committee Vote: yeas 12, nays 0.

